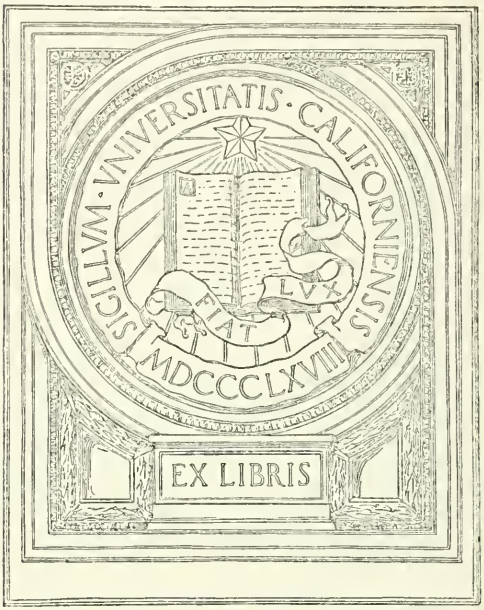
ADVENTURES OF AN ATTORNEY IN SEARCH OF PRACTICE

UNIVERSITY OF CALIFORNIA
AT LOS ANGELES



THE GIFT OF
MAY TREAT MORRISON
IN MEMORY OF
ALEXANDER F MORRISON

To

All Attorneys who want

A Client.

ADVENTURES

OF

AN ATTORNEY

IN

SEARCH OF PRACTICE

By SAMUEL WARREN,

AUTHOR OF "DIARY OF A PHYSICIAN," "LAW STUDIES," ETC., ETC.

"Est enim hæc, judices, non scripta sed nata lex: quam non didicimus, accepimus, legimus; verum ex natura ipsa arripuimus, hausimus, expressimus; ad quam non docti, sed facti; non instituti, sed imbuti sumus."—Cic.

CHICAGO:

JAMES COCKCROFT & COMPANY.

1872.

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ADVENTURES, &c.

CHAPTER I.

"Quos clientes nemo habere velit."—Cic.

There is something vastly agreeable in the first day of a professional life; clerkship, servitude, and drudgery are all at an end; one no longer asks the hour, with sore consciousness of being too late for office, or dire misgivings of having being inquired for; and racking one's wits in vain for some new excuse, not yet exhausted, of "gone to the Temple," "examining an abstract," or "serving a notice!" I was in such a desperate hurry to begin, that though I had not a client nor the dream of one, and was filled with lofty ambition to do the thing well, and start with all the magnificence of a house, I had not patience to wait till I

Gift of Mrs. A. P. Morrison 3-22-43

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could find one, but engaged a first floor over a shop, bought a desk and half-a-dozen chairs second-hand, incarcerated the first stray lad I could catch, in a dark cell eight feet by six, tied up old precedents with new tape, and then painted my name gorgeously on the door posts with all the dignity of "Mr. Sharpe, Solicitor," at full length.

Such was my self-complacency at the independence of my novel position, that I believe I rung my hand-bell for my clerk half a score of times in the course of an hour, merely for the pleasure of having it answered; though there was charity in the act, for without this stimulus to attention, he would inevitably have gone to sleep for lack of better employment. "Well," I thought to myself, "here I am at last, and there's an end to Blackstone and Tidd, and Barton's Precedents, and all that for the present; and as to leases, and settlements, and wills, they are bad enough to be sure, in any view of the case, but at all events I shall draw them to pay myself, and that is something." And thus comforting myself for the plague of prospective labor, I eyed the grave red-lettered calf-skin, resumed the newspaper, read every

advertisement, and finally gaped out of the window in vain speculation of finding a client in some passer by.

How long this interesting state of indolent expectation might have continued, had I waited for clients to come to me, I cannot say, but after a week or two I began to find it as *ennuyant* as it was profitless, and resolved, as nobody seemed willing to find me out, to try my luck in finding out them. It was very clear that my extraordinary merits were still unknown, and an attorney, though he ought certainly to "blush unseen," if he blushes at all, cannot by any means afford to waste his sweetness on the desert air. Hence I changed my plan; left word with my clerk that if any body called I was "gone to the Temple," and sallied forth on a Paul Pry expedition among all my friends and acquaintances; but I verily believe that the demon of ill-luck, if there is such a deity in heathen mythology, presided over my first essays. Not a soul had called on me for three weeks, except two or three idle lads to see "how I got on," when, while engaged on one of my marauding expeditions, a certain noble lord of very large property, hitherto unprovided with a solicitor,

and to whom I had been favorably mentioned by a common relative, drove up to my door, and called to instruct me to file an information against the trustees of an important charity. "Gone to the Temple" was as unintelligible to his noble ears as if my clerk had reported me "gone to the devil;" perhaps, in his opinion the expressions were synonymous, as in truth, I have often considered them myself: however this may be, I never saw any more of his lordship, or heard another syllable of his instructions, (except that another solicitor had filed the information,) though on three successive mornings I left my card at his mansion in Grosvenor Square; at no cost of time, for I had nothing else to do, but at an immense expense of coach-hire, omnibuses not then being in fashion. It is all for the best: I have since seen and heard much of his lordship; he is a worthy man, but his notions, however becoming his high rank, would never have agreed with my temper at that early time of day; and had we quarrelled, I should have lost clients in his connexion that I have still retained, and value far more highly.

This was a bad beginning, but I made the best of it, as has been my rule through life; a

wealthy client of noble rank is a prize to any man, but to a beginner at the age of four-and-twenty, the loss of him is a serious affair; so I complained to my friends of my bad fortune, wondered how anybody, noble or plebeian, could be so unreasonable as to expect to find a man of business always at home without making an appointment, and a few days after was solaced by a call from a gentleman that I had long known, who wished for my advice on a case where he clearly had not a leg to stand on; and so I told him.

"But must I lose the money, Sharpe?"

"I am afraid so."

"Then you think there is nothing in it?"

"I won't go so far as that, but I think you are wrong."

"Umph! a pretty joke to let this villain rob me in this way! I thought you would get me out of it; but you say you are not certain. I should like to ask Mr. Scarlett."

Lord Abinger at that time ruled the day. I suggested the opinion of a junior counsel, as more easily attainable, and the opinion was taken. It confirmed mine, but my client was still dissatisfied; he went to another attorney,

who brought the action, and succeeding by Scarlett's aid, against law and reason, swamped my credit; for though the plaintiff has been my friend, and a kind one too, for more than twenty years, he has never again been my client from that day to this. I met him a few days after the trial, and our conversation was rather amusing.

"Well, Wright, you have gained the day!"

"Yes, to be sure: but little thanks to you."

"I admit it; for I still think you were all wrong."

"Ay; but wiser folks thought me all right."

"Scarlett never thought so, whatever the jury might."

"But Scarlett did think so, and said so."

"Oh yes! he told the jury so of course, and they were fools enough to believe him; but did he tell *you* so, at your consultation?"

"He said nothing at the consultation! he never once asked me to sit down; but he cocked his eye at the attorney, nodded to the other counsel, poked the fire, and I saw at once it was all right. I paid two guineas or more for that cock of the eye; but it don't matter for that, so long as that rascal can't rob me and

laugh at me to boot; and he would have done both, had I followed your advice."

"Well, don't cry till you are out of the wood; he'll move for a new trial, and will get it, take my word for it; and then Scarlett himself will tell you who is right."

My friend made a wry face at this prediction, and had his opponent then chanced to meet with him, and taken him between wind and water, he would gladly have drawn stakes; but as my ill-luck would have it, I was again out, for a new trial was *not* moved for, my friend recovered damages and costs, and has ever since voted me a fool, and himself the very cleverest biped in creation: yet the case was as clear as the daylight. I earned, by this matter, £2. 14*s*. 6*d*., and lost my client and my legal repute into the bargain

Weeks and even months rolled on, and my neat new floorcloth was still scarcely soiled by a trace of rich city mud, my desk was yet unstained by ink, my red tape retained its virgin bloom, my papers had not gathered an ounce of "*blacks*," my clerk had acquired an habitual deze, and even my hand-bell seemed to have lost its power of disturbing his siesta! Matters

looked desperate, and some extraordinary effort *must* be made to maintain appearances? Things were in this state when I received a call from a venerable old gentleman, for whom I had been actively employed in my clerkship. Though I had almost jumped up in ecstacy at the unwonted sound of voices in the outer room, I felt bitter disappointment when my visitor was ushered in; for I inferred that his object could only be to discuss old business of which I thought I had taken leave for ever, or to bother me with the yet more provoking inquiry after papers or documents long since sent to the tomb of the Capulets. I was mistaken.

'Mr. Sharpe, I have been at a stand-still ever since I lost you: nobody understands my case: nobody will read my papers: I have to begin again, and go over all the old ground,—what can I do?"

"Tell me how I can help you, and I will with all my heart."

"You must take the business into your own hands."

"That would be unfair to my late masters,"

"They wish it themselves."

I inquired into the fact, and found it was so.

I cannot consistently, with the mask that I am obliged to assume, mention their names; and if I could, my testimony to their liberal and generous behaviour could add but little to the very distinguished station which they have long and deservedly occupied in the profession. This old gentleman was the claimant of property exceeding half a million sterling. I believe that it was nearly double that amount, but I never accurately learnt the sum. He was a man of first-rate abilities and wonderful resolution; he had been engaged for a quarter of a century in prosecuting this claim, and had accumulated papers upon it sufficient to load a coal-wagon. Disappointment, however, had attended all his efforts: he had three times memorialized the special tribunal which parliament had appointed for the investigation of his and similar cases, and he had three times been turned back. In this dilemma, he was recommended to apply to the eminent house to which I have alluded; his papers were in a foreign language which I alone in the office understood; and hence he was handed over to my care. When I left the office, I had, by dint of immense exertion, reduced his voluminous

papers to a manageable form, and put the matter in such a simple train for explanation, that I never dreamt of my further aid being required. It is difficult, however, for the ablest man to take up another's work; and poor Mr. Boyle soon found himself at sea with my successor. Had I at this time made a bargain with him, he felt his case so beset with difficulties, and so likely to survive, if not to murder him, for he was then seventy-two, that he would gladly have allowed me five per cent. on all that I might recover; indeed, he hinted as much; but I neither then nor now think such a mode of doing business quite honest, or at least, respectable. When relieved from all scruples of delicacy, by the kindness of his former solicitors, I resumed the case with all the energy I could command. His age prevented his daily coming to me; and consequently, I spent my time, often extending far into night, at his house. I succeeded for him to the full extent of his demand; but not till my statement of it, and my proofs, had been submitted to the keen scrutiny and close consideration of that clear-headed statesman, the late Mr. Huskisson. I shall not soon forget the grateful elation with

which Mr. Boyle announced to me his success. He had been laboring for years in vain. He had spent life's best existence in painful research, in self-denying privation, in prison, in want, and in personal danger; resolved never to abandon, but with life itself, the prosecution of a case which afforded him the only prospect of satisfying creditors who owed their losses to his most unmerited misfortunes. He had at length triumphed. He frankly and gratefully acknowledged that he owed that triumph essentially to my intelligence and industry. He was placed by it in circumstances, not only of independence, but of wealth, even after paying to the uttermost farthing every sixpence that he owed; and to his honor it should be added that efflux-ion of time had long extinguished every legal liability. His creditors nobly acknowledged his merit, for they not only returned him the interest on their debts, but presented him with an estate which cost them sixty thousand pounds. He called for my bill, and I looked on my fortune as made: it somewhat exceeded forty-one pounds, five shillings, and sixpence, and was paid to a fraction; but I lost my client! I did afterwards conduct for him an

appeal to the privy council, involving a comparatively trifling sum of five or six thousand pounds, and I lost it on a point of law. He was too noble-minded to have resented this, as the failure was not mine. I attribute his desertion of me to a very different cause, and one which, I fear, vindicated it to his own mind. Having paid his creditors in full, he wished to supersede his bankruptcy. The commission was of nearly thirty years' date; he was very old and infirm; and I collected from him that complicated and serious accounts were still outstanding between him and the estate of his deceased partner. I deprecated the supersedeas of his bankruptcy, lest it should rip open differences which costly and perennial litigation alone could settle: he could not comprehend the difficulty, and, I fear, ascribed it to motives that he disdained,—a wish to protect him by technical defense, from obligations that he knew were just. If this was not the cause of his alienation from me, I know it not to this hour; but so dire was the offense that I unconsciously gave him, that he limited his gratitude strictly to my demand, and cut me from that day, or nearly so, to the day of his death,

twelve years after. I have met with many unaccountable disappointments in my professional career, but few of them have been more mysterious to me, than how I happened to offend this venerable client, by recovering for him half a million of money under desperate circumstances, at a cost of £41. 5*s*. 6*d*.

This disappointment mortified me much at the time, and even still I feel it: but somehow or other I gradually crept on in connexion, though still destined to lose my clients as rapidly as I acquired them. I have always had the credit of being a good-natured fellow: it is the worst reputation that an attorney can enjoy: he may be as acid as Sir Vicary Gibbs (my younger readers will scarcely understand the allusion), as roguish as Ikey Solomons (this comes nearer the present day), as ignorant of law as my Lord B—— (nobody will misunderstand this), and yet, if he is not unluckily a good-natured fellow, he will make money and retain clients. A reverend clergyman, whom I had known intimately at Cambridge, had a pretty servant-girl. The pretty servant-girl had previously lived in a wealthy family of rank, where she had given great satisfaction; so

great, that she looked for higher wages, and these being refused, she took herself off. A pretty girl is not likely to be long out of place, if she conducts herself decently, and very soon she found one to her heart's content; but character was required, and her former mistress being piqued at her abrupt departure, declared her to be all that was excellent, but nodded her head, and added that she was "unsteady." A nod of the head, whether from a prime minister or a prima donna, is no trifle; the pretty, but "unsteady" services of the girl were rejected; the fair one took refuge with the reverend gentleman; and he appealed, with Quixotic benevolence, to my confounded good-nature to see the girl "righted." I brought an action for the libel, against my pleader's advice this time, for I had had experience enough of being too clear-sighted; I laid the damages high; assigned as many mischievous inuendoes to the word "unsteady," as an Irishman reeling along in all his glory could have devised; and, against all reason, law, and common sense, recovered a hundred pounds, when as many pence would have been ample indemnity. A new trial was moved for, and of course obtained, on

payment of costs by the defendant. The costs were paid; the record again brought down; the cause called on; the jury sworn; and then the defendant cried peccavi! offered to submit to the damages assessed before, and pay all costs of the second trial. What man in his sober senses would reject such overtures! Of course I acceded to them, packed up my briefs, and bolted. The costs were very heavy, for witnesses had been subpœnaed to rebut the pleas of justification. I write from recollection, but if my memory does not deceive me, the taxed costs between party and party were more than £300. My extra costs would have swallowed up the damages, but my "good-nature" would only accept those out of pocket, about thirty pounds; leaving the pretty "unsteady" lass seventy to comfort herself with, on the strength of which she married a very steady baker in less than a month. But again I lost my reverend client! "Was ever such a gross dereliction of duty! to submit to a dastardly compromise; to spare the well-deserved exposure! such scandalous oppression! such unheard-of, such base, such unprecedented calumny on a poor, helpless, unfriended girl! and her

own attorney, after taking up her cause 'good-naturedly,' benevolently, and boldly, to cow before the front of cruelty, and the pride of rank and purse!!!" &c. &c. &c. So my reverend friend bade me good-by; transferred his patronage and his business elsewhere; and, though we have once or twice, during the last twenty years, met on cool and distant terms, I have never seen him or any of his connexion, within the walls of my office, from that hour to this. We were previously on terms of intimacy.

My "good nature" has been eternally in my way; another early incident of my professional life will show this in another light. In the last instance, it led me into the folly of espousing a bad case on its merits, on the solicitation of an ass who could not understand its demerits; and though I won the case, I lost the blockhead's business, which was far better worth gaining: but the next folly into which my "good nature" plunged me entailed with it loss of time, trouble, money, and connexion too, simply because I laid people under obligations, who were too poor to discharge them, and too proud to acknowledge them! and, perhaps I should say, too mean to offer that indirect, but satisfactory

acquittance which is easily won by the favorable introduction of a young professional man to the circles of rank and wealth.

I had still next to nothing to do, when accident brought me to the acquaintance of a lady of high birth and considerable property, but whose affairs were deeply, though not irretrievably involved. The peculiar introduction which I had to her, though the object of it was expressly to offer my professional services, compelled me, as I thought, to offer them gratuitously. They were accepted with an avidity that ought to have made me distrustful of their value being appreciated: but I had undertaken no trifling duty; there were bailiffs to baffle, duns to tranquilize, annuitants to awe, friends to coax, and, in a word, the devil to pay. How I ever got through it, I cannot tell, but I did clear the road; and finally, by cutting down one claim, compromising another, and setting at defiance two or three score, till they willingly took a shilling in the pound, I succeeded in extricating my "honorable" client, and comfortably left her to make the best shift she could on some twelve hundred a-year. I was never asked for my costs, nor ever asked her for them,

though they would have been no trifle; but a year or two after I casually met her in the park, where certainly I had no business to be. She was walking with a female relative.

"Good morning, Mrs. Leighton: it is a lovely day."

The glass to the eye, and a distant courtesy.

"I wonder that the park is so deserted in this weather."

A second courtesy, partaking rather of the bow. If I have too much good-nature, I certainly seldom want assurance; and that is a kind of compensation-balance—a good set-off, as my brethren would say.

"Laura, my dear, I fear the carriage will miss us;" and so saying, my "honorable" client was meditating an escapade closely bordering on the cut direct. I resolved this should not succeed.

"Apropos of the carriage, Mrs. Leighton, had you any more trouble with that rascally coach-maker, Stiffspring?"

"Oh, my dear Mr. Sharpe, I declare I didn't know you! don't mention the fellow's name; you quite distress me,—the horrid creature! but I can't stop to talk now, for the wind is

very cold, (it was a sultry day in July!) I shall see you soon," and so saying, she directly turned back, assuring "Laura" that the carriage must have gone the other way. I pursued my own; and never have seen her since, though I hear she is again in the same quagmire in which I first found her: and there she may remain for me.

CHAPTER II.

"Non nostrum inter vos tantas componere lites."—Ecl. III.

It was my destiny, for a long time, to fall in with most unmanageable clients. I have no doubt that every solicitor who has to make his own connexion, as it is called, meets with the same adventures, more or less; but I cannot help thinking that I have had more than my fair share. There are two classes of clients that I have always found especially fickle and difficult to please; and yet in the first instance, they are always the most confiding and apparently the most docile. Docility is a great point in a client: some attorneys will laud ductility as a better virtue, and very near akin to it; I will not dispute this, when the client has the other properties of gold; but by docility, I mean something between ductility, pliability, and capability: whereas clients of the

classes I am about to mention have very seldom any of either of these good qualities after their first or second interview.

Whatever wears a petticoat, whether ladies or clergymen, is an absolute nuisance in an attorney's office. I have given a specimen of both, but not exactly in the character to which I now allude.

One day when I was meditating gravely on the past, and speculating anxiously on the future, each foot on the hob, and leaning back in my office chair, which began now to exhibit a little of the professional dignity of fading morocco, a portly gentleman, with a rosy face that confessed to a daily bottle of port for at least forty summers, was announced as "the Venerable the Archdeacon Tithestraw." I rose, and bowed, and offered him the professional throne on which I had been myself seated, not, I protest, from any obsequious deference, though I own to certain pleasurable anticipations of an exchequer suit, but simply because my mind misgave me as to the sufficiency of any other chair in the room, adequate to his safe reception, in point of strength and capacity.

"You are a Cambridge man, Mr. Sharpe?"

"I have that honor, Sir.'

"May I ask what college?"

So many Cantabrigian sins rushed to my conscience, though it had slumbered over them for years in peace, that I was awe-struck by the interrogatory, not less than by the pomposity of his tone, and the inflated dignity of his manner.

"Certainly, Sir; but excuse me for first inquiring why you ask?"

"Sir, I am unfortunately compelled, by conscientious principles, to embark in a controversy of the most painful nature with one of my parishioners; and as mine is a peculiar, indeed I may say a very uncommon case, I would fain avail myself of the assistance of a legal adviser whose sympathies, not less than his professional zeal, would be enlisted in my behalf. I heard in our combination-room, that you and I, Sir, were both children of the same Alma Mater, and hence I inquired your college to assure myself of your identity."

This long-winded enunciation of himself and his business, did not by any means prepossess me in favor of my visitor: however, six and eight-pence is worth having, come

from what pocket it may, so I declared my college, and satisfied his doubts: he then proceeded.

"It is most painful, Sir, to any man who feels the due importance of the pastoral relation, to be involved in a controversy with a parishioner about the temporalities of the church; but we owe a duty to our successors, which is too frequently opposed to our natural inclination to yield, rather than assert by law, our most undoubted rights."

The sentiment was awfully impressive, and might possibly be sincere. I bowed, and hemmed acquiescence.

"I need not remind you, Sir, that though in the present day, and for some centuries past, that revolution that occurred in our ecclesiastical polity in the days of the eighth Henry, completely secularized all property in tithes, and subjected them to the manifold incidents of a lay-fee, yet on the acknowledged principles of our common law, spiritual persons alone are entitled to receive them."

The Archdeacon now became awfully learned! I again bowed and hemmed, but with somewhat more of the hem critical, than the hem acquiescent: he advanced in his syllogism.

"I, Sir, am a spiritual person, as my card has doubtless assured you. I am the vicar of Dumbleton cum Quagland, in the county of Lincoln; and by virtue of the endowment, I claim, as of indisputable right, all the tithes of hay, wool, agistment, sheep, calves, poultry, and garden stuff, and all oblations, mortuaries, and dues thereto belonging, or in any way appurtenant to the same."

It admitted of no question; on my part it would have been downright folly to doubt it: my assent to the position was this time most cordial.

"Easter offerings, Sir, are, as you of course well know, dues of common right."

He paused, as if for a professional confirmation of the dogma, but I knew nothing about it, though I was afraid to say so. My policy was to parry the thrust by a simple

"Well, Sir?'

"I may be wrong, Sir; I do not pretend to be an authority in such matters, but the slight research which my clerical duties have allowed me to make into them, has taught me to consider this as an axiom in law; for I find it so laid down by my Lord Coke, and also

recognized in the learned book of Peere Williams, 'for,' says the chief baron Gilbert, 'Easter offerings are a compensation for personal tithes, or as other authorities maintain, for the tithe of personal labor; inasmuch as by the statute 2 and 3 of Edward VI, chap. xiii, sec. 7, it is enacted, that every person shall yearly, at or before Easter, pay, for his personal tithe, the tenth part of his clear gain, his charges and expenses being allowed according to his degree."

I began to gasp for breath, having long since been out of my depth, but my venerable visitor had not got to the beginning of his case; and in spite of exchequer suits in view, I trembled at the prospect. Silence was obviously my cue, and I allowed him to go on without interruption.

"It was determined in Newn versus Chamberlain, 1 Equity Cases Abridged, page 366, that the clear profit of a corn-mill must be reckoned after deducting the charge of erecting the mill; and this has been decided over and over again, for which see Ambler, Vernon, Brown, Lee, and many other old and valuable reports."

I was absolutely in consternation: examination before admission was nothing to it; I quaked horribly, and could only still reply:

"Well, Sir?"

"Well, Sir; Peter Tyler, the miller at Dumbleton cum Quagland, my wealthiest parishioner, sets me at defiance, and insists that the sails are an annual charge to be deducted from his clear profits before he will pay his personal tithe of labor, commonly called Easter dues!"

I began to suspect a hoax, but it was not prudent to avow the suspicion.

"I thought, Sir, at least I always understood, that two-pence or three-pence per head was universally recognized as the rate of Easter dues!"

"I know not by what law or statute that limit can be prescribed, Sir, nor do I know any precedent that can overrule the act of Edward the Sixth. Will you favor me with a case, Sir?"

I was convinced the man was hoaxing me, and I resolved to be even with him.

"The case of Twitch and Tweakem is decisive on that point."

"Twitch and Tweakem," taking out his pocket-book and noting it down: "have the goodness to refer me to the report."

'You will find it," I said, turning over a common place book with nothing in it, "at page 551 of Quotem's Reports, vol. 15."

But there was no joking in the matter: he returned to me the next day to tell me that he had been to the Temple and Lincoln's Inn libraries, and even to the British Museum, but could discover neither the case nor the book.

"Very likely, Sir; it is extremely scarce, and not to be met with, except by sheer accident; but what do you wish me to do?"

"I wish you to compel Peter Tyler, Sir, to render an account, a true and just account, of his clear annual profits; and in a case, Sir, like this, where the interests of the church (of which I am an unworthy minister) are at stake, I am willing to bear any reasonable expense, even if it should, by the tedious uncertainty of the law, (for which I blame no one) absorb twenty, or thirty, or peradventure fifty pounds."

I could scarcely forbear a laugh at the mag-

nificence of his proffered martyrdom to the general interests of the church; or at the naivete with which he thought to disguise, under such a flimsy veil, a splenetic and vindictive feeling against the poor miller of Dumbleton cum Quagland: on my assuring him that he must reckon on costs upon a ten-fold scale, he applied his snow-white cambric to his olfactory organ, replaced his shovel-hat upon his brows, and with most dignified courtesy bade me good-morning. I never heard what became of Peter Tyler and his mill, nor whether my estimate of costs, or my joke, had settled the point, but I did hear, that shortly afterwards the venerable archdeacon was a trustee defendant in an important cause in which I was retained by—nobody!

CHAPTER III.

"Lucent genialibus altis
Aurea fulcra toris, epulæque ante ora paratæ
Regifico luxu: Furiarum maxima juxta
Accubat, et manibus prohibet contingere mensas,
Exsurgitque facem attollens."—Æn. VI.

I was still musing on my misfortunes, for lack of other more interesting topics of professional meditation, when about ten days after this mortifying discovery, a ticket-porter came bustling up to my office door, bearing an antiquated box well protected by iron clamps, corded and locked, and duly directed to Gregory Sharpe, Esq., Attorney at Law, &c., "to be kept dry, this side uppermost," and all the rest of it. The man demanded fifteen shillings for the carriage, and two more for the porterage; but where it came from, except from that Maelstorm of parcels and passengers, the Golden Cross, or what it contained, he knew no more than the dead. I again suspected a hoax of

stones and brickbats, by way of apology for demanding seventeen shillings, but there was a sweet promise about the venerable chest, which determined me on venturing, and I paid for, and received the charge. Day after day, and week after week passed over, but no explanatory letter arrived; and though the box was distinctly addressed to me, yet as it was securely locked and no key had been forwarded, I was deterred by scruples of delicacy, from opening it. I eyed it and examined it daily and curiously, and various and profound were my speculations. It was to be "kept dry;" this argued papers or deeds within; but then the top was "to be kept uppermost," and I well knew that all the writings and deeds of the richest land-holders in the kingdom were hourly turned over in an attorney's office, without upsetting a title. My scruples might have restricted my curiosity for a twelvemonth, but for the seasonable visit of a fair damsel, who carried on the mystery of bonnet-making. She called on me one morning in considerable agitation; under such excitement indeed, that my professional dreams always haunting my sanguine imagination, took a new form, and

"breach of promise," with all its interesting details flitted before my eyes! I had almost instinctively rung my bell to dispatch a retainer to Serjeant Wilde, when, having recovered her breath, exhausted by the steepness of my stairs, the damsel exclaimed in a tone which showed that she had not by any means recovered her composure, "Pray Mr. Sharpe, if that be your name, why haven't you sent me Mrs. Rudall's bonnet?"

"Simply because I have not received it, and have not the honor of knowing such a lady."

"Well, now, that *is* strange! and isn't your name Sharpe? and ain't you an attorney of law? and don't you live at No. 10. in this here street?"

"Precisely so, my good lady; but you seem to know ten times more about me than I do of you, or Mrs. Rudall either."

She then drew a letter out of her pocket, and showing me the address, inquired if I knew the writing. I disclaimed all acquaintance with it. She returned it to her pocket, without reading a line of it, and saying there must be some strange mistake, and begging pardon for the intrusion, withdrew. Here was new matter for

curiosity, but my thoughts still fondly clinging at intervals, to the box, I began to penetrate the mystery, and without more hesitation, sent for a smith to open it. The first object that met my eye, was the unlucky bonnet, most carefully hedged round with papers and parchments to sustain it in its vertical position. I removed it with all possible care, and found deposited immediately beneath it, a letter addressed to myself, in an elegant female hand, on beautiful embossed paper, and slightly sealed with wax of celestial blue, impressed with Cupid retaining a dove by a silken cord.

"Mrs. Rudall presents her compliments to Mr. Gregory Sharpe, and begs permission to forward to him all her deeds and papers, being involved in a most cruel dispute with her landlord, and having heard from their mutual friend, the Rev. Mr. Fairfax, an old college acquaintance of Mr. Sharpe's, the highest testimony to his character and abilities. Mrs. Rudall will trouble Mr. Sharpe to allow some of his people to take the bonnet, which she has enclosed for safety in the box, to Madame Livorne. Mr. Sharpe will please to direct all possible care to be taken of the bonnet, and to

favor Mrs. Rudall with his opinion on her case, as early as possible, her landlord behaving like a brute, and being very troublesome!"

"P. S. Mrs. Rudall will be glad if Madame Livorne can send home the bonnet by this day week."

Here was I in a pretty mess! the letter had no date or address; mere ornamental appendages in the opinion of most fair correspondents. More than a fortnight had already gone by. I had no certain clue to Madame Livorne, and as to the case, and the brute of a landlord, had I been Theseus himself, my lovely client had shown herself no Ariadne. I turned over the papers with a vengeance, but I could make nothing of them. I had lost sight of Fairfax for above seven years, and never knew more of him, than as a casual companion to take wine with. In short, I resolved to leave the affair to the chance of the tables, after making an honest and ineffectual attempt to trace the bonnet-maker

Another week elapsed, and to my relief, though somewhat also to my surprise, a lady drove up to my office door, sending up a tiger to beg that I would oblige her by stepping

down to her carriage. I immediately obeyed; and a good-looking lady of some thirty years' date, and sweetly smiling a self-introduction, announced herself as Mrs. Rudall.

"*Have* you got my bonnet, Mr. Sharpe?"

"I have, madam, and several deeds and papers that came with it."

"Oh, never mind the deeds and papers, they will keep till to-morrow; but how could you be so inconsiderate as to detain my bonnet?"

"Really, madam, had you told me where to send it, I would—"

"Why, I told you to Madame Livorne!"

"But you never told me where she lived."

"In St. James's street, to be sure; everybody knows where Madame Livorne lives;" laying a stress on the word "everybody," with something between a sneer and a tone of incredulity. I lisped out some nonsense about my professional distance from the world of fashion, and offered the *amende honorable*, by forthwith forwarding the bonnet to its destination; but this she declined, taking the precious charge upon herself; and at the same time promising to make an appointment to see me on "her case," before she left town. I had the wit to ask her

address, and I called at her hotel three successive days without once finding her sufficiently at leisure to enter on the subject. I did not call again, though she staid a week in London. The day before she quitted it, I received another note from her, which, though not sealed with doves or blue wax, I opened with alacrity, but found it only contained an order to deliver over the box with its contents to another attorney, the brother-in-law of Madame Livorne, "whom she had luckily found an opportunity of putting in possession of all the circumstances of her unfortunate case!!!"

I was indebted to the kindness of Miss Gordon, a lady of high connexions, and intimate with many members of my own family, for an introduction to Lady Carysfort, who, with her two sisters, Mrs. Walsingham and Miss St. Clair, were entitled to the accumulations of a very large property, amounting to £80,000. The income of their father had for peculiar reasons, not necessary to explain, been made over to trustees to allow him a certain maintenance for life, and on his decease to distribute the principal with all the accumulations among his three daughters, subject, however, to the

discharge of his just debts. The father died; but the trustees demurred to the immediate distribution, on account of certain outstanding claims of an indefinite and questionable character. My assistance was required in preference to that of the family solicitor, to obtain for the ladies the money to which they were entitled. I bestowed considerable pains on the investigation of the case, and eventually succeeded in satisfying the trustees that they might safely set the alleged creditors at defiance, except as to a comparatively trifling sum; on this they consented to proceed to a distribution, on being indemnified by the cestui que trusts. Having thus, at the end of two or three months, completely cleared away all difficulties, I explained the matter to my clients, that I might obtain the requisite instructions as to the indemnity. I first called upon Miss St. Clair.

"Indeed, Mr. Sharpe, this is really good news! so we shall get all our money at last?"

"Yes, ma'am; subject to the indemnity."

"I don't quite understand this indemnity business, though you have said so much to explain it."

"It only amounts to this—if the trustees are

compelled to satisfy these creditors, which I am convinced they never will be, you must, jointly with your sisters, refund as much money as they pay on that account."

"Well, if that is all, there can be no objection to that; but will this affect my rights under my aunt Carisbrook's will?"

I began to feel alarm; I had never heard of such a will, nor of such a person, and the plain course was to say so.

"I never heard of the will of Mrs. Carisbrook!"

"The Countess of Carisbrook," laying a slight emphasis on the word "Countess," bequeathed to me £500 per annum, so long as my father lived."

"Then, ma'am, it will not affect your rights, for by your father's death the annuity is gone already!"

"Indeed, Mr. Sharpe, I never thought of that! this makes the matter doubly important to me; of course I will give the indemnity."

And leaving my client to ponder over the wonderful discovery, I hastened to call on Mrs. Walsingham. She at once comprehended the whole affair; when, unluckily I observed that it would be necessary for me to explain it also

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to her husband, the Rev. Mr. Walsingham. The lady instantly bridled up, and I saw that I had perpetrated a blunder, but of what nature I could not divine.

"I cannot imagine, Sir, what Mr. Walsingham can have to do in the matter! it is *my* money, not Mr. Walsingham's!"

"I believe, Madam, it is not comprised in your settlement, and of course, therefore, his concurrence is necessary."

"It is *not* of course, Mr. Gregory Sharpe, nor shall I ask Mr. Walsingham's concurrence in any step that I think proper to take."

"I beg pardon for persisting in a point which seems irksome to you, but you must be aware that in contemplation of law, you and Mr. Walsingham have a common interest, and are identified."

"Identified, Sir! identified with Mr. Walsingham! a common interest with Mr. Walsingham!" raising her voice at every period, till at last it almost amounted to a scream.

"Well, Madam, perhaps you will oblige me by at least speaking to him on the subject."

"*I* speak to Mr. Walsingham! speak to *him* on the subject! or on any subject whatever!!!

Indeed, Sir, you must excuse me;" rising at the same time to ring the bell.

doubted whether she was sane; but I saw clearly that she was at all events frantic with anger; and to avoid being kicked out, which seemed highly probable, I took up my hat and made my bow.

I found Lady Carysfort at home, and Sir William with her, as well as Miss St. Clair, who had already preceded me, and communicated my intelligence, I was cordially received; and the sister's communication saved me all trouble in explaining, but Lady Carysfort's settlement had not been sent to me with Mrs. Walsingham's.

"Your Ladyship will be aware of the necessity of my ascertaining whether these moneys formed any portion of the settlement funds."

There was a little hesitation, and a slight suffusion of the face, (it had been a beautiful one,) as she inquired—

"What can that have to do with it, Sir? Is not the money mine?"

"I cannot answer that question precisely without seeing the settlement. Sir William may take an interest in it, or your children."

"My children, Mr. Sharpe! my children!"

The exclamation was uttered with a shriek; the poor lady immediately became hysterical; Miss St. Clair sobbed audibly; and Sir William strided across the room, evidently embarrassed. The very lap-dog on the rug displayed his fangs, and growled out his indignation. Here was another pretty mess that I had made of it! I began to think the whole family crazy; and commissions of lunacy crossed my vision; how could I apologise, unconscious as I was of offense?

"Mr. Sharpe!" said Sir William sternly, and suddenly paused.

"Really, Mr. Sharpe," sobbed out Miss St. Clair, and was again silent.

"Oh! Mr. Sharpe, if"—and poor Lady Carysfort was mute from utter exhaustion.

"May I ring for assistance, Sir William?"

"No, Sir; I want no witnesses of this unhappy scene."

"Allow me to open the window, Sir, and then to retire; I will wait on her Ladyship at any other time when she feels more composed." Sir William approached the bell himself, and I was about to withdraw.

"I think, Sir William," said Miss St. Clair, "Mr. Sharpe's suggestion, however painful, is unavoidable;" but I had had enough of it, and expressing hastily my regret at having been the unintentional cause of so much distress, I left the room, intending to call again the following day. I received the following laconic letter, however, in less than an hour:

"Sir William Carysfort's compliments to Mr. Sharpe, he is requested to send his account to Mr. Longhead, the family solicitor, who has Sir William's order to discharge it. Mr. Longhead's familiar acquaintance with the domestic circumstances of Sir William, points him out as the proper party to bring this affair to a conclusion."

I soon had the mystery explained by my friend Miss Gordon. Mr. and Mrs. Walsingham had been separated by deed, for fifteen years, and the union of Sir William and Lady Carysfort was generally understood to be one, though they were received in society, that would have subjected more plebeian folks to certain pains and penalties. One so ignorant of fashionable scandal as myself, and so little versed in heraldry as never to have heard of the extinct

title of Lord Carisbrook, could scarcely be expected to be skilled in family settlements. Mr. Longhead managed matters better, and wound up the distribution of the father's estate by an amicable suit which lasted fifteen years.

CHAPTER IV.

"Ἀνὴρ γὰρ χρηστὸς αἰδεῖσθαι φιλεῖ." — *ΙΦΙ. ΕΝ ΑΥΛ.*

I could multiply these anecdotes of earlier days, *ad infinitum*. Sometimes I failed to please from excess of zeal; sometimes by supposed lack of it, though if my clients could have penetrated my bosom, and witnessed my anxious feelings about professional success, this would have been the last fault laid to my charge. On other occasions temper led me astray. I plead guilty to this accusation; and yet it has not unfrequently been the case that I have been reproached with coolness and want of sympathy in my client's outraged feelings! I have selected the preceding failures, not only as curious in themselves, but as illustrating the first maxim which I would impress on a young solicitor; he must inform himself, of course, of

the merits of his employer's cause of complaint, and judge a little for himself of his employer's merits as well. It will be observed that in all the instances I have mentioned, *I had but one trial;* and to the best of my judgment, I failed in every instance to retain my client, not by professional unskilfulness or negligence, but by offense to my client's self-complacency. I made many friends in the very first years of business; and allowing for the partial loss of them by death, or bankruptcy, (a sort of commercial syncope rarely followed by resuscitation) I retain them still. These are men with whom I have grown up in the affairs of life; men who know and understand me, and who are equally understood by me. We are familiar with each other's peculiarities, and not less so with each other's value. It is no trifle that will sever a connexion between solicitor and client, based upon this mutuality of knowledge; but a man who begins business at four-and-twenty has but few connexions of this character; he must make them for himself; if I may judge from my own experience, there is no greater fallacy than to conclude that the friends gained at school or college, are sufficient to launch you

in the sea of life. I had such ephemeral acquaintance by the hundred; but they rarely stick by one for any practical good: the majority of them are themselves embarked in the same great adventure of professional speculation, and consequently have themselves to look to first, and little leisure and less inclination to assist others who may perchance hereafter prove their rivals. Moreover the frankness of youth discloses its defects as well as its merits, and it is rare indeed that boys carry their favorable recollections of a school-fellow to the age of maturity. It is among those with whom business, in its proper sense, brings us first acquainted, that we must seek to establish a connexion; and if that connexion is to be permanent, their tastes, their tempers, and their habits, must be as much the subject of our study, as the redress of their injuries, or the protection of their rights. Such is the self-importance of mankind, that it is thought no common favor by a senior to allow a young man even one opportunity of rendering himself acceptable in his profession. Clients are not very ready to intrust themselves to juvenile advice; and if by the entreaty or influence of

friends, or by any other accident they are induced to do so, not only do they expect most deferential gratitude, but they scan with an illiberal and almost inquisitorial eye, every word and gesture that in men of longer standing would be overlooked. Let me not be misunderstood. Anything approaching to obsequious servility is disgraceful to a member of a liberal profession, however young: any disposition to precipitate familiarity, or any unbecoming descent to the low habits of vulgar society, because wealthy clients may occasionally be found in it, is discreditable, and for the most part disgusting, even to those who are the objects of such unworthy conciliation. A solicitor must never forget that he is his client's adviser; and that the very act of asking advice implies an acknowledged superiority of information or of judgment in the party consulted.

But it is perfectly consistent with necessary self-respect to fall in with the feelings, and be kindly indulgent even to the prejudices and whims of a client; he is very often more taken with this good-natured sympathy than with the most brilliant parade of learning, or the most triumphant success. In fact, clients come to

their solicitor to be consoled, as often as to be assisted: and a prompt self-adaptation to their oddities, a cheerful chiming-in with their fancies, a silent acquiescence in their infirmities of pride or temper, will rivet the confidence which chance only perhaps, or at best a patronizing spirit, has first induced them to repose.

To do this skillfully, and to avoid all mal a propos allusions, like the gaucheries to which I have just confessed, a man must take some little trouble to inform himself of his client's domestic position. In taking instructions for wills or family settlements, this is so obviously indispensable, that it cannot be avoided; but some of the cases that I have above narrated, will prove that it is equally requisite on occasions that scarcely appear to trench at all on the domestic relations. Without some insight into such matters, we can never judge to what extent our advice may not be counteracted by the paramount influence of a wife, a partner, or even a more remote connexion. It once fell to my lot to solicit a bankrupt's certificate, where there were nearly a hundred creditors to be canvassed: I found my applications fruitless in three cases out of five, till I had enlisted the

wife in my service, and then all was plain sailing. I have, at the present time, an extensive circle of clients, all of whom are more or less allied to a gentleman of deserved reputation for good sense and a clear head, though but little versed in business. I am rarely consulted by one in this circle, upon a mixed question of law and prudence, but I am told, "I must ask my cousin what he thinks of the matter;" this cousin being somewhat timid withal, I have sometimes found my counsel rejected through his resistance, and generally to the injury of my client. Yet I do not feel it politic to deprecate such appeals. I always yield to them as satisfactory to my client, however little so to myself.

It is not difficult to collect this kind of information without appearing to seek it officiously. I have now and then pointedly asked a man who has seemed half distrustful of my advice, if he has no intimate friend that we could take into our counsel? whether his wife or his son feels an interest in the affair? whether he is on such terms with his family as to be sure of their approbation, however things might turn out? if such an investment, or such a proceeding would bring him into unpleasant collision with

his partners, his correspondents, his customers, etc.; and such questions, if put with tact, usually elicit sufficient of his feelings or his apprehensions to enable one to detect his weak side, and avoid the risk of unconsciously wounding it. In all cases of character, such as libels, breach of trust, non-performance of contract, or composition with creditors, these inquiries are due even to the party himself.

CHAPTER V.

"Si quid fecimus, certe irati non fecimus."—IV Tusc., 51.

Close, but silent observation of the manners of a new client, is productive of much convenience in our future intercourse with him. Some men lay themselves bare at once, in their impetuous exposure of their injuries and grievances: they rush into your office, agitated, excited, and breathless with impatience, to find not merely an adviser, but a ready listener. Attention must be profound, but credulity scarce; never believe above half of what an angry client may say, but most patiently endure the whole of it. Mr. Wilson, a merchant of great respectability, one day entered my room, accompanied by his senior clerk, who usually attended him as a sort of peripatetic day-book. His face betrayed an irritated mind; and he seated himself in silence, half afraid of trusting himself to speak on the subject on which he had called to consult me:

after a minute's pause his clerk came to his assistance.

"Mr. Wilson has called on you, Mr. Sharpe, to mention—"

"Be silent, Taylor, I can speak for myself, I suppose."

"I beg pardon, Sir, but I thought—"

"What business have *you* to think? Attend to your own affairs, Sir."

The clerk was silenced; but Wilson still hesitated, cleared his throat, and began. "'Tis very unpleasant, Mr. Sharpe—" He paused again, again coughed, and once more made a futile attempt. "'Tis really painful, Sir, when a gentleman who has for forty years—" He could not get further.

"Forty-one years last Michaelmas," interposed Mr. Taylor.

"You are right, Taylor; forty-one years ago, did I—" and then, after another momentary pause, "and now to come to this!" I thought it must be commercial failure, or something nearly as awful; but I wisely held my peace.

"Would you believe it, Sir? it is not an hour since that villain, that dastardly villain, called me a swindler, Sir."

He almost choked in the utterance, and to protect myself from a smile, I affected surprise. "*You* a swindler, Mr. Wilson!"

"He did indeed, Sir: he called *me*, Sir, a swindler—a swindler! and on 'Change too!"

"A *dirty* swindler," interposed Taylor.

"Be silent, or I'll break your head, blockhead! he called me a *swindler*, I tell you, Mr. Sharpe."

"Dirty," whispered Taylor again."

"Another word, you scoundrel, and you shall eat it."

"How did it happen, Mr. Wilson?"

"I went on 'Change at four, Sir—"

"Ten minutes to four by our clock," observed Taylor, with provoking punctuality.

'I tell you it was four, Sir! Don't heed that booby: at four o'clock exactly I went on 'Change: it is always my custom."

"Except on Saturdays," interjected Taylor.

"I haven't missed three Saturdays this twelvemonth, jackanapes."

"Ramsgate excepted," rejoined Taylor, still correcting him.

"And didn't I go to Ramsgate for health, Sir? Is a man of my years to die on 'Change?"

"You always said you would die at the desk, Sir?"

"And mayn't I die where I please, Sir?"

"But the affair on 'Change, Mr. Wilson. I think you had better not interrupt your employer, Mr. Taylor."

"You are right, Sir; he is always interrupting me: where did I leave off, Taylor?"

"At 'dirty swindler,' Sir."

"You lie, rascal, you lie! he did not say 'dirty:' bad enough as 'twas, he never said 'dirty.'"

"It is not material, Mr. Wilson; 'swindler' is the actionable word."

"It *is* actionable then? thank you, Sir; thank you twenty times, Mr. Sharpe: that's all I wanted to know."

"Beg pardon," began Taylor; "you wanted to know if 'cheat' and 'blackguard' were actionable too."

"Did he use all these coarse epithets, Mr. Wilson? It would not have been exactly legal, but I think, in your place, I should have knocked him down."

But Wilson turned again on his unlucky clerk; and I almost feared he was about to

begin the knocking-down system before my face: he raised his umbrella, and shaking it violently, swore he would break every bone in his skin, if he presumed to open his lips again, and then turned to me.

"He called me swindler, Sir, and nothing else; but that's enough for me, you say it is actionable, and I'll proceed, or my name is not Wilson! He disgraced me before all 'Change, the infamous villain; but thank heaven, I did *not* knock him down: bring the action, Sir, immediately; retain Scarlett, retain the Attorney-General, retain Gurney, Brougham, and all of them. I'll have the whole bar, Sir; forty-one years have I imported from the Baltic, and never was called 'swindler' before!"

"You forget Lloyd's in the panic," observed the accurate clerk.

"I forget nothing, Sir; I never forgot any thing in my life, Mr. Make-mischief!"

"And that job about the bark Sally," again said Taylor.

"Say another word, Sir! say another word, that's all! say only one more word, Mr. Taylor! only speak again, Mr. Taylor! one more word, Sir, and—"

Poor Wilson could say no more himself, and gasping for breath, and apparently suffocated with rage, he put on his hat, and left me abruptly: before he reached the foot of the stairs, he reiterated his instructions in a peremptory tone: "Immediately, Mr. Sharpe, if you please, immediately." Taylor remained behind, apparently unmoved by all the scene, and unconscious of any thing extraordinary.

"Well, Mr. Taylor, I have my suspicions; pray who used the pretty words 'cheat and blackguard?'"

"Mr. Wilson."

"I thought as much. and who began the controversy?"

"Mr. Wilson."

"And what was it all about?"

"Tallow."

"Who sold it?"

"Mr. Wilson."

"What was the complaint?'

"Not equal to sample."

"Who was right?"

"Mr. Wilson."

"Tallows have fallen?"

"Yes."

"Then bring Mr. Wilson here again to-morrow."

He came accordingly, cool and composed; laughed at the affair of the previous day, thanked me for my negligence in not retaining all the bar, employed me on the tallow-contract where he proved to be right, and without litigation beyond the service of a writ, he obtained nearly all the difference in the value of the consignment.

CHAPTER VI.

"Qui modus tibi fuit frumenti æstimandi? aut honararii?"—Cic.

A MAN constantly on the look-out, can hardly fail of finding something to do. Though my success in Boyle's affair got me very little money, it acquired me some credit for capability. A public inquiry of great national importance was in progress; an insulated matter connected with it, required professional investigation, and many solicitors of ten times my experience having declined the duty, not only because it was unpopular in itself, but attended, as was supposed, with some little personal risk, I was invited to undertake it. I was so very green at this time, that I was unconscious of the favorable position in which I stood, and the advantage it gave me in fixing my own terms, for time pressed; I was to embark within four-and-twenty hours of receiving my

instructions, and as I have noticed, nearly a dozen attorneys having already refused the office, the government was so driven into a corner, that I might have named what compensation I pleased; it would have been promptly given. The same *insouciance* about the position of my employers, misled me here. I was summoned to the Foreign Office. At the end of a long apartment, busily occupied in papers from which he seemed unwilling to take his eye, sat a young man scarcely older than myself, and dressed in the extreme of fashion, with whiskers and moustaches of no common dimensions; they were at that period much less than at present; his heels were decorated with gilt spurs of extraordinary length; his trousers braided *en militaire*, and in fact his whole costume partook of the style of military undress. It was *not* Lord Lyndhurst, then Sir John Copley, though the very next day I recollect meeting this learned Solicitor-General, in consultation with his yet more learned colleague, in precisely the same equipment. It was not till long after, that I found out the title of my dandy instructor; on this occasion I knew not whether he was lord or commoner, patrician or

plebeian, beyond what the locality argued. I had been standing some five minutes or more, when he first looked up, eyeing me with a stare compounded of hauteur, scrutiny, and surprise. I thought to myself even then, and very frequently on similar occasions since, how vastly ignorant these great folks are of everything and everybody, beyond the circle of their own little world! or would it never enter into their imaginations to conceive that even the most juvenile attorney on the roll would be abashed for a single moment by a supercilious official stare: we should indeed have labored in vain at judge's chambers, and the master's office, if such petty courtesies of life did not at once secure our self-possession. I never meet with a rude man, especially one who is *condescendingly* rude, but I immediately vote him vulgar; and vulgar men are below the level of gentility, let their birth or station be what it may, and therefore below mine! By this little syllogism, I can always recall my self-complacency, whatever may be the offense. I recommend it strongly to the adoption of my professional brethren.

"What may be your name, Sir?"

"Mr. Gregory Sharpe."

"(*Hem.*) You are young, Mr. Sharpe."

"Very young, Sir," taking a chair, for he had not invited me to sit down, so I invited myself.

"You are an attorney I believe, Mr. Sharpe?"

"I am, Sir."

"Where were you educated?"

I did not choose to understand him, as I thought the catechism verging on the impertinent, so I replied, with a well-founded conviction that it would check his aristocratic condescension; "I am a Cambridge man, Sir." This little academical sally changed his tone, as I anticipated.

"You misunderstand me, Mr. Sharpe, I was alluding to your professional education; pray draw a little nearer, Sir, (I had been sitting near the door:) this is a very important matter, and though you have been strongly recommended to us, I did not expect to see so young a man. You understand French, of course?"

"I do, Sir."

"Have you traveled abroad?"

"Not on the continent."

An expression of surprise again crossed his features, but it was transient this time.

"Well, Sir, this is a delicate affair; you will I am sure act with prudence and caution; in case of unforeseen difficulty, you will address yourself to Sir Charles ———. How soon can you start?"

"In an hour if you wish it."

"Very well; you will receive your further instructions from the Attorney-General, and you will write to us by every post. Good morning, Mr. Sharpe," and I was bowed out accordingly. Extraordinary to say, I was afterwards informed, by good authority too, that I had "made a favorable impression on Lord Cl—!"

The Attorney-General was carefully minute in the delivery of his instructions. Sir John Copley lounged into the room for five minutes, examined me with his glass as though I had been a kangaroo, adjusted his black stock before the mirror, played about his spurs with a spruce jockey-whip elegantly mounted with gold, and then lounged out again, with the grace and foppery of a French dancing-master! but I suppose this was in keeping with the saloons of Carlton House.

I proceeded on my journey, and succeeded in my mission; it would have been difficult to fail

under the guidance of one so clear and so acute as Gifford; I was absent for five weeks, I was only five nights in bed, and received for my services exactly one hundred pounds!!! Had I known my men better, I might have had five times as much.

But the occasions are rare in which a solicitor can with propriety, or indeed with safety, make any ultra-professional stipulations on the subject of costs. Where, as in the case I have just mentioned, the duty is out of the ordinary course of business, arduous and responsible in itself, and of a nature to carry the attorney away from his daily clients, it is not only competent to him, but usual to provide that he shall receive a specific sum for his services; and as he cannot tell whether by his absence he may not lose other business of the highest and most lucrative kind, he is warranted in demanding a sum equal to what he might have earned on the most liberal scale of costs allowed by the courts, or by practice: thus, had I been occupied in Parliamentary appeals during the five weeks I was abroad, I might have gained five guineas a day, and adding to this a similar fee for the nights which

I steadily devoted to the pressing duty, my remuneration should have amounted to nearly three times the sum that I actually received. But the extraordinary and urgent nature of the duty would have justified me in expecting still further inducement, and under the circumstances, £500 would not have been thought an unreasonable fee by any man acquainted with the profession. Few things are more difficult, than to answer the important preliminary inquiry, "What will the costs be?" Of late years my reply has always been plainly, that I cannot tell; but it was long before experience convinced me, that this is the only safe answer to give.

Connected with the subject matter of the last affair, was another in which I lost my client, owing, I believe, to this common error of predicting the amount of costs, whereby five times out of six we mislead our clients, and cramp our own exertions.

Mr. Bedworth was an *oratorical* tradesman of strong politics, and had made himself conspicuous by his ill-judged and ostentatious violence on many occasions. He became obnoxious to the public press, and was libelled and abused

as virulently as the fondest lover of notoriety could desire: he applied to me for counsel.

"I am a very ill-used man, Mr. Sharpe."

"I think you are, Sir, but I thought you were the last man to complain of hard usage in the good cause."

"That is very true, and I don't complain; but these detestable papers must be put down. It is a foul shame that this licentious ribaldry —this tyrannical despotism of the press should be tolerated: to a man of less iron nerve than myself, such unmerited calumny would be fatal; to a man more open to suspicion than myself, it would be ruin." I was not then aware that Mr. Bedworth had been twice a bankrupt, three times insolvent, and, in a word, "on the town" for the last five years. "I am bound by principle, Mr. Sharpe, I am impelled by the imperious dictates of honor and conscience, to stand forward on this occasion, and vindicate my fellow-countrymen from a base thraldom, more cruel than the sway of Nero. What will be said of me, what will be thought of *me*," laying a fond emphasis on the pronoun, "if I flinch from the patriotic duty!"

My humble opinion was that he would have run a better chance of getting credit for common sense than he ever did before; but that was no affair of mine; men never consult their attorneys to be complimented on their good sense. I remained dumb, while the orator proceeded.

"These are fine days, indeed, Mr. Sharpe, when a man like myself—and I pretend to be nobody, I assure you, though they *are* pleased to compliment the little talent of public speaking, which nature has blessed me with, but let that pass: I am but a humble individual, exerting myself in my sphere for the public good; I have no higher ambition, I assure you, Sir; and if a seat were offered me tomorrow, (I *was* invited to stand for the borough where I was born, at the last election; though on public principle, I was obliged to decline, for the deputation could not guarantee me against expense: but this in confidence, Mr. Sharpe—only by the bye—you understand?) I say, Sir, that if I were seated to-morrow, and offered place the next day, I would decline it: I would indeed, Sir, unless conscientiously assured that I could serve my coun-

try with credit (as indeed some folks say that I could be very useful): but I am only a humble individual, however kindly my friends may be pleased to think of me; and I repeat, that matters are come to a fine pass indeed, if such a humble and unpretending man as myself cannot take his proper share in the public duty without being scurrilously libelled, and mercilessly and falsely abused!"

"Really, it is too bad, Mr. Bedworth; I am not surprised at your temper being a little ruffled by it."

"Pardon me, Sir, there you are wrong—quite wrong: I have lived too much before the world to allow my temper to be ruffled by *any* provocation: no man is fit for public life, who allows his temper to be ruffled. I never was ruffled in my life, Sir; never!"

I saw I was in danger, and speedily retreated.

"I beg your pardon, Mr. Bedworth. I judged of you by myself; my patience never could have brooked so much contumely and insult; but I was not born for public life."

"True, Mr. Sharpe; very few men are; it was long before I discovered my own peculiar

fitness for it; but you are losing sight of the immediate question."

The orator himself had lost sight of it, like many other modern orators; but we must humour our clients a little.

"I have indeed, Mr. Bedworth: you quite carried away my feelings, and that I confess, is a great fault in one of my profession; but what course do you intend to take?"

He was flattered by this deferential appeal to his superior sagacity.

"Certainly, Mr. Sharpe; I well thought over the subject before I called on you; in fact I gave to it all the powers of my mind: under your correction, Sir, I think that a criminal information is the course."

"That is scarcely usual in cases of private libel, unless the libel is intended to provoke a challenge."

"Private libel, Mr. Sharpe! private libel, do you call it, where a base and cowardly attack is made on a public man?"

I was again in imminent peril.

"Doubtless, Sir, it is your public character that has induced the libel; but it is nevertheless a libel peculiarly of a private character, to

reflect upon the honesty of a tradesman's past career."

"But all my friends will expect me to take the more dignified course on such a serious occasion; so I have determined upon it, if you please."

"Very well, Mr. Bedworth; the first thing then is the affidavit. I see you are called a "gaol-bird," a "rogue of enterprise," and a "gazetted thief;" your name is not specified certainly, but you have no doubt, I presume, that you are the party intended?"

"None at all, none whatever: 'the principal speaker' at this celebrated meeting, could be nobody but me, Sir. I was undoubtedly the principal speaker there. I moved the first resolution; I seconded the third; I spoke on the fourth; I opposed the amendment; and finally, I returned thanks to the chair. Indeed, I may say that nobody of any consequence took any part in the affair, but myself."

"Then it is unquestionable, Mr. Bedworth, that you are the 'gaol-bird?'"

"I am, Sir."

"And the 'rogue of enterprise?'"

"I am, Sir."

"And a 'gazetted thief?'"

"I am, Sir. I am the 'goal-bird,' the 'rogue of enterprise,' and the 'gazetted thief:' all in one — *Tria juncta in uno*, Sir."

"Well then, we must deny it all on oath."

"That is easily done."

"I will prepare the affidavit to-night, if you will favor me with a short narrative of the last few years of your trading life."

"What has that to do with it?" (*in obvious alarm*).

"We must go into court with clean hands, you know; and not only deny the charge, but all color and foundation for it."

A dead pause followed, for which I was at a loss to account, and therefore deemed it prudent not to interrupt it.

"I am thinking, Mr. Sharpe, that a wise man must look a little to himself, even in public affairs. A criminal information is a costly article, I fear."

"Yes: it costs some money: fees to counsel on two motions — office copies of long affidavits — fees again on the trial, mount up to something."

"What do you suppose?"

"A hundred and fifty pounds, at least."

"A hundred and fifty pounds, Sir! a hundred and fifty pounds, Mr. Sharpe!!! No information for me on such terms. So because a man is a public man, he may be libelled, scandalized, vilified, and can only purchase redress by utter ruin! Oh, how little does the world imagine what *we* must endure who devote ourselves to the public good!"

"You may bring an action, Mr. Bedworth."

"And get a farthing damages for my pains; for a man in my station cannot expect to find twelve men together, without a political enemy among them!"

"Then you may indict."

"What will that cost me?"

"A trifle comparatively—fifty or sixty pounds."

"Do you call that a trifle?"

"Yes; for such a luxury as law."

"Well, I don't know: I am so committed to my friends and with my party: I must do something. Can't you say forty pounds?"

"It may be no more: I can not pledge myself."

"'Tis a hard case, a very hard case, a cruel case; but I must stick to principle: so indict."

To cut short a long story, though not wanting in instruction, the bill was preferred six times, before it was returned a true bill; the press caught scent of the proceedings, and revenged themselves by new libels that piqued my wrong-headed client into renewed exertion; and finally his costs swelled up to three hundred and sixty pounds. He then libelled *me* for having deceived him: paid me with a bill at twelve months, which was dishonored; and at the end of some three years, and not before, my costs were paid, and my public-spirited client forever lost to me, not less, however, to my satisfaction than to his.

CHAPTER VII.

"Emit domum—prope dimidio carius, quam æstimabat."
CIC. pro Dom.

ONE axiom on the question of costs is so obviously true, that we can not avoid surprise at our clients so often losing sight of it. If they wish only to pay their attorney like a shoe-black, they will soon have only shoe-blacks for their attorneys. No man can limit himself as to the extent of costs, without cramping his exertions to a degree that may prove highly injurious to his client's interests. The casualties and accidents of litigation are so frequent, and sometimes so expensive, that they occasion more expenditure than even the whole of the proceedings that go on in the accustomed course; and if the cause of action is not of sufficient importance to warrant costs out of the ordinary routine, if necessary, it is wiser

and more honest to advise the client to submit to his loss. This maxim must be received *cum grano*, certainly; but in cases where character is not involved, or rights ultra the subject-matter of the litigation, it is invariably true. In ordinary actions to recover debts, or damages for pecuniary injury, the expense resolves itself into mere matter of arithmetical calculation; such actions, however, form by no means the staple commodity in the business of an eminent attorney. A curious instance of this accidental expenditure to a small extent, once occurred to myself.

I was engaged in a cause at the assizes about fifty miles from London. It stood first in the paper for the day following my arrival. I had traveled from town in a post-chaise with two of my witnesses, one of whom was a surveyor of eminence, who had been subpœnaed to produce his report of certain dilapidations. This gentleman was one of the convivial corps, remarkably corpulent, jolly, and good-humored. On arriving at the assize town about seven o'clock in the evening, I placed him in the post that he had been anxiously coveting for some three or four hours previously, at a table en-

sconced in a snug box in the coffee-room, with his favorite dish before him, a bottle of the best port, and such a fire by his side as one views with pleasure in a raw, cold evening in March. He had been up with me all the preceding night, discussing evidence. I now told him to discuss his steak, make himself comfortable, and go to bed, while I attended the consultation. Mr. Baron Gurney was my counsel; a man that no flaw in evidence could escape.

"Has Mr. Gubble been served with a duces tecum, Mr. Sharpe?"

"Yes, Sir."

"Where is his report?"

"Here, Sir," (*producing it.*)

"This!" said Gurney. "This can never be the original: it is too neat and methodical. Where are the memorandums from which he prepared it?"

It had quite escaped me to ask for them; yet it was obvious that the non-production of them would seem suspicious, and insure the rejection of the copy as evidence. I hastily returned to Gubble, and found him wrapt in full enjoyment: the cloth removed; the bottle

but half exhausted; the feet relieved from the incumbrance of tight damp boots, and relaxing their swelled tendons in comfortable slippers; the legs extended on a second chair, and the eyes heedlessly closing over the leading article of a daily paper; while a night-cap was already overshadowing his bald temples.

"Mr. Gubble! Mr. Gubble!" I exclaimed, "rouse yourself, Mr. Gubble, and come to the consultation!"

"Rouse myself! consultation! What do you mean? is the house on fire?"

"You must explain your report. Gurney doesn't understand it."

"Report! consultation! I had just settled into a doze. Confound your ways of business! I don't half like them."

"Come, man; off with your cap, and on with your boots, and come along with me."

He slowly raised one leg from the chair, and then the other, gasping between each operation; pushed the cap back on his forehead; groped along the table for his snuff-box; and with the finger and thumb on the lid, not yet raised, growled out, "Con-sul-ta-tion! what d'ye mean?" I repeated my summons, but he was

in no hurry; and deliberately exhausting the pinch with one hand, while he supplied his glass with the other, desired me to ring the bell.

"Waiter, send chamb'maid. Con-sul-ta-tion! what has a weary man like me to do with consultations? Chamb'maid!"

She entered.

"Lit the fire, Betty?"

"Yes, Sir."

"Bed uppermost, Betty?"

"Yes, Sir."

"Three blankets?"

"All right, Sir."

"Pan of coals?"

"Aired it well, Sir."

"Live coals at nine, Betty; stir the fire a little before, Betty; draw the curtains; mind a rush-light; send waiter."

The waiter again appeared.

"What can I have for supper, waiter?"

"What you please, Sir."

"Something light: devilled gizzard?

"No, Sir."

"Sausages?"

"Can't recommend 'em, Sir."

"Oysters?"

"Very fine, Sir, and fresh: how would you like 'em?"

"Scalloped—Welsh rabbit to follow—egg flip."

"When, Sir?"

"Immediately—in ten minutes: and now for your con-sul-ta-tion, Mr. Sharpe."

The night-cap was easily superseded by the hat, but all the bootmakers in London could not have replaced the calf-skin on his expanded limbs. He toddled along in his slippers as well as he could, over the slippery, half-frozen stones. I would not suffer him to wait to resume his coat, which he had exchanged for his dressing-gown before he began his dinner. Groaning, yawning, and cursing all law and all lawyers, Gubble entered the chambers, staring round in perplexity, and rubbing his eyes, as if doubtful whether it was not a dream.

"Mr. Gubble, your memorandums."

"Memorandums!"

"Yes: those from which your report is prepared."

"Report!"

"Yes; your report. Are you awake, man?"

"Zounds! I scarcely know. I was just going to bed."

"Go when you like; but we must have the memorandums."

"Memorandums! I've got no memorandums. Sharpe has the report."

"Tut! man; I have the report here, in my hand, but where is your note-book?"

"Note-book!"

"Yes; note-book: have you no papers but this?"

"Why, I don't know what more you want. I have a sort of pocket-book, but it's of no use."

"Where is it?"

"At home."

"Where?"

"At Hackney."

"You must go for it!"

"Go for it!!!"

"Certainly."

"What, to Hackney!!!"

"To Hackney."

"Well, this *is* a queer business! go back to Hackney, and subpœnaed here!"

"Not at all; you must fetch it."

"I fetch it! that's a good one! Boots must call me early in the morning, I fancy!"

"Morning, man! you must be back by the morning!"

"Back by morning! Hackney, to-night!!! a hundred miles to-night!!! sure you are mad!"

"Very likely;" coolly observed Gurney, "but it must be done."

"You'll not catch me doing it, I can tell you, done or undone; I've not half finished my dinner; and ten minutes more would have found me in bed, which I never leave at night, unless burnt out."

But Mr. Gurney had given me my cue. A chaise and four was already at the door; poor Gubble's great coat and boots safely deposited within it, with an extra blanket, and a second bottle to keep him warm. We bundled and heaved him into the chaise, half by persuasion, and half by force, and cautioned the boys not to let him out for the first two stages; trusting to his fears and his good sense to do the rest, when he was sufficiently awake to reflect on it. We reckoned rightly. He was back by ten the next morning; entered the court as we were

called on, unshaved, undressed, but elated with the thought of his activity; produced his pocket-book, and saved the cause, though at an accidental cost of some five-and-twenty pounds. The fault, however, was not mine: for I had cautioned him by letter, as I always do on such occasions, to bring with him every scrap of paper that he possessed, and he told me that he had done so.

These accidental "aggravations of expense," (it is the best term I can invent for them,) are not uncommon, after bestowing the utmost care that foresight can suggest. A very similar instance has occurred to my recollection while writing the preceding one. It happened to me during my clerkship, and is the more instructive, because it shows that even the discretion of a clerk must sometimes be largely exercised on the necessity of incurring extra costs. I had been entrusted with the management of a very important case, involving the interests of a great commercial body, as well as the personal character of some of its members holding high rank in the city. In this, as in many cases, I dare not be more particular. It was deemed of such consequence to obtain a verdict, that the

witness on whose testimony we principally relied, had been maintained in seclusion at a country place two hundred miles from London, for nearly two years, at an expense of £150 per annum, till the case was ripe for trial. All this time he was vigilantly watched, unknown to himself. I dared not bring him to town till the day but one before the trial; but that was time enough for mischief; he threw himself in the way of one of the defendants, and the next morning he was on his road to Calais. As soon as I found that he was missing, I reported the matter to Mr. Gurney, who on this occasion also, was the leading counsel. It was one of the many qualities of this distinguished advocate, that he was not only *in utrumque*, but *in quodcunque paratus*. I was almost desperate with disappointment; but while he felt the embarrassment, he at once suggested the remedy. The fellow-clerk of the rascal that had absconded was almost equally familiar with the facts we wished to prove, but, as we feared, still less trustworthy.

"It's bad enough, Mr. Sharpe, bad enough, certainly; but it can't be helped; subpœna White."

Away I started to subpœna Mr. White; it was still early in the day. This young man was engaged in the counting-house of some merchants in the city; people in large business. I rang the bell, and was answered by one of the clerks. "Is Mr. White within?" "I will inquire, Sir." I waited nearly five minutes; and thinking that so simple a question might have received a more speedy answer, I determined to follow into the counting-house. It was divided by railing into compounds. I walked up to the railing of the nearest desk. "Is Mr. White within?"

"No, Sir."

"When do you expect him?"

"It is very uncertain."

"Where does he live?"

"At Walworth."

"The street?"

"I don't know, Sir."

During this parley I kept my eyes about me, and observed that several of the clerks bent their heads over their desks, while two or three were obviously retaining laughter with some difficulty. I effected to be considering what I should do, while in reality I was counting the

clerks, and comparing their number with the hats which I saw hung up against the wall. There was a hat too many, and a vacant desk.

"So ho!" thought I to myself, "the seat is still warm;" for I was an old sportsman, while yet a very young man; "the game can't be very far off," and then without more ceremony, I opened the door of the compound, and seating myself on the vacant stool, said I would leave a note for him. I found the keys in the lock, —an additional proof that my suspicions were correct. Under pretense of looking for some paper, on which to write my note, I opened the desk; found in it, after tumbling over some loose papers, a letter with his address at Walworth; and then, saying that I had changed my mind as to writing, and would call again in the evening, I quitted the house. I lost no time in sending off a messenger express to Dover, with a copy of the subpœna, and a description of his person, while I started myself for Walworth, and arrived just ten minutes after he had left it in a chaise for Dartford! His servant or his wife, whichever it might be, thinking him safely off, honestly confessed that he had absconded to avoid service of the sub-

pœna, having long expected it; he was actually in the counting-house, when I had called there: the clerk, who opened the door to me, detected my business by a piece of red tape hanging out of my pocket; and whilst I was catechising the others as to his residence, he had escaped by another door, run home to get another hat and bolted. But I was prepared: I had post-horses waiting for me a hundred yards off; got first to Dartford; subpœnaed him as he drove into the yard; brought him back in the same chaise; and by his evidence, obtained a verdict the next day, but certainly at no slight additional costs, in the shape of traveling expenses!

The casualties of litigation are so numerous and diversified, that it is utterly impossible, unless in the simplest matter, to foretel the expenses. The recent reforms in pleading, by compelling a disclosure of the real defense, have reduced, but not superseded the speculative guesses of the attorney: indeed, in one respect, they have added to the difficulty; because, by success on one issue, and failure on another, a debtor and creditor account of costs is established, the balance of which may, by possibility, be against a plaintiff, though he has been suc-

cessful on the general merits. It is a very pleasant thing, no doubt, to have to tell your client, "Oh yes, Sir! we have succeeded for you; but instead of receiving costs, you will have forty or fifty pounds to pay to your opponent." Independently of this, a hundred accidents may occur, all tending to multiply costs. A witness may be ill, and the record must be withdrawn; a bill for discovery may be advised; an injunction may be obtained by the defendant; a cross action may be brought; indispensable witnesses may have made a trip to Naples or New York, and must be examined on interrogatories; in a word, so many deviations may, and generally do occur, that no prudent solicitor will ever insure his client against the amount of costs, unless in the most general, and therefore the most unsatisfactory way. The right answer is, "If costs are an object, settle your quarrel out of court, as best you may:" and to clients themselves, I may observe, that if an attorney is disposed to be dishonest, no skill can avail them against overcharges; for his charges may be individually reasonable, and even low, but so needlessly frequent, as to make the sum total of his bill

nothing less than fraudulent, though none but a brother-attorney can detect the fraud. It is often the case with mean and illiberal clients, that they submit their attorney's bill to another practitioner, unknown to him. Every solicitor should be prepared for this; for I have known too many instances, where to curry favor with a new acquaintance, or to acquire on easy terms a credit for moderation, an attorney has pronounced severe and mischievous judgment on the costs of his respectable neighbor, though all in the profession would rightly consign the critic himself to the shades of Newgate, as an incorrigible thief.

How my unprofessional readers will stare (if I chance to find any), when I remark that one of the most difficult problems that an attorney has to solve, is to what extent he may properly make any charge at all! Yet I rejoice to say, for it is to the credit of my profession, that with the respectable members of it, this is frequently a preplexing question. It occurs in many ways; the most common is this:—an old and valuable client becomes acquainted with a case of great hardship, and perhaps oppression, involving legal points; he calls on his attorney,

and avowedly on benevolent impulse, asks his opinion; the opinion involves, as a matter of course, inquiry into fact and evidence, for very few clients understand the value of the one, or detail the other with accuracy; the sufferer is sent to explain his grievance: it admits of redress; the client liberally offers to indemnify against disbursements; the attorney can do no less than waive profits; and thus a suit is begun gratuitously, partly from charitable feeling, yet more from anxiety to oblige a client, and time and labor are soon bestowed to a most inconvenient extent. In a simple case like this, there is no help for it: matters must proceed to an end in the usual routine, and compensation must be found in conscience; but this simple case admits of many variations, and then the difficulty begins. The client may go no further than just asking an opinion; the opinion is, on the whole, favorable; the injured pauper is not poor enough to claim a pauper's privilege; if you desert him, you offend your client, who, ignorant of the expense, as well as trouble that the offer implies, expects you will spontaneously take up the case; partial success follows; a wrong-headed jury,—and nineteen out of

twenty are wrong-headed,—give ten pounds damages for a broken leg, when they would not have their own gouty toes trod upon for fifty; some thirty more are recovered for taxed costs, and (the case has occurred to myself) after receiving these "*party and party*" allowances, you remain more than twenty out of pocket. You may gain a verdict for your pauper client, and swallow up all the fruits of his triumph, even to repay extra costs out of pocket! Reason and equity would say in such a case, that the attorney is excusable for pocketing the damages, as well as the costs; yet character and interest forbid it. It is a hard case: but the attorney must relinquish all, though successful; and to retain the character of a gentleman, must abandon, not only remuneration, but bare indemnity. The most annoying of all causes that a man can undertake, is where he recovers damages, moderate or temperate damages, as they are called, that is to say, fifty pounds for the loss of an eye, or thirty for the crippling of a limb, for a humble client thrust upon him by a wealthy patron, or adopted out of Christian charity! How often have I known jurymen

vaunt with self-complacency, of their justice, when some poor devil has obtained from this same justice, just enough to pay his surgeon's bill, after having been disabled for life by a drunken coachman, or a larking dandy; while the attorney, who has brought the action from mere compassion, has had the pleasure of hearing himself branded by counsel, as a wretch prowling about the streets for quarrels, and obtains for his benevolence, taxed costs that will just pay for coach-hire and a blue bag to take his papers home! I lament to add that I never heard of counsel relinquishing fees for a successful pauper; though I have known many in which the attorney of that pauper has been left to pay such fees out of his own pocket.

There are other instances, where even among the wealthy, good feeling prohibits an attorney from asking costs. As a general rule, it may be laid down that they never should be taken from a charity purse. The retainer may be refused: but if accepted, nothing can be claimed, but money actually expended. Sometimes, however, yet greater liberality should be shown. It once fell to my lot to be consulted by a poor clergyman, who enjoyed a small benefice in the

country. In the plenitude of Christian good-nature, he had become security to the extent of £1000, for the good conduct of a worthless relative, whose only chance of reform appeared to be in accepting a situation of some pecuniary trust, which his friends had procured for him. I never knew a case in which such good offices worked out the object for which they were intended; and so it happened here: the rascal became possessed of a considerable sum, far exceeding the penalty of the bond, and absconded. My client was immediately required to indemnify the employers. He was conscious of no defense, and utterly destitute of all means of satisfying the demand, except by mortgaging his living. His self-reproaches for forgetting what was due to his wife and infant family, in entering into such a bond, not unmingled with painful misgivings whether he had acted honestly even toward his opponents, in giving an indemnity that he found he could not satisfy, were enough to touch a miser's heart. I offered my assistance: but here again the good man hesitated, because "he could not pay me." I re-assured him on this point, by declining payment, on the principle that professional aid

was all I had it in my power to give in too many cases where I ought to be more liberal, and therefore I made a compromise with my conscience at times, by sacrificing six-and-eightpence, and debiting charity with the amount. He smiled at my quaint morality in book-keeping, and allowed me to investigate his case; the rather, because there was too much reason to fear that my trouble would only extend to a little negociation for indulgence. I was too much interested in his case to be niggardly in my exertions, and by dint of close inquiry, I learned that the money which the man had embezzled, was private money, not belonging to his employers collectively, but entrusted to his charge by one of them on his separate account. I had extreme difficulty in obtaining evidence of this; but eventually I succeeded, and defeated the claim, or rather compromised it on terms of abandoning all costs. They amounted to nearly a hundred pounds. Meanwhile, my reverend friend became exposed to further difficulty, by having the young family of a brother thrown upon his hands, by that brother's premature decease. Could a solicitor, under such circumstances,

call on him for costs? or ought he to have withheld his aid? I cannot answer these questions for others; but I know many of my profession who would have followed the same course as myself. Many similar instances could be given; but I have said enough on the subject. I will only add, that it is prudent to relinquish costs altogether, or to charge the usual and reasonable fees. I never once knew a client that gave one credit for a compromise.

CHAPTER VIII.

"Quo virtus, quo ferat error?"—Hor.

"——Our doubts are traitors,
And make us lose the good we oft might win
By fearing to attempt."—Measure for Measure.

The "timid" form a very unmanageable class of clients. I think it was Dr. Johnson, who compared plaintiff and defendant to two men ducking their heads in a bucket, and daring each other to remain longest under water; but there are some who are so shy of the immersion, that the very sight of the bucket makes them faint. They may with more justice, be compared to a dentist's patient: a racking tooth-ache, of which he knows neither the beginning nor the end, drives him to the surgeon; but the bare mention of "extracting" procures temporary ease—the sight of the instrument completes the cure. "I feel better already, Sir: the tooth may be serviceable still:

I'll call again to-morrow." The twitch returns; but he prefers pain to mutilation, and endures till the nerve grows callous. In like manner, I have often found clients, especially after one severe operation, submit to wrong, injury, and fraud of no trifling amount in the annual rests in their ledger, rather than avail themselves of their solicitor's aid, to establish a protecting principle in their dealings, or make an example of an habitual depredator. As my practice extended I met many characters of this class: they try one's patience to the utmost. One morning I was intent on a voluminous abstract studiously prepared, so as to envelope in mystery the title it professed to expose. I had already perused it twice to no purpose; and beginning to doubt whether my own stupidity, or the conveyancer's knavery, was the cause of all the obscurity, I had manfully resolved on a third perusal, while the subject was fresh on my mind; when in walked Messrs. Simkin and Soft, extensive traders in Cheapside.

"This is Mr. Soft, my partner, Mr. Sharpe: my own name is Simkin."

I bowed, handed them chairs, poked the fire, and asked their business.

"You see, Mr. Sharpe," began Simkin, "we are in an unpleasant affair; and your friends, Messrs. Wilson and Co., having recommended us to you, we wish to explain that—"

"Now, my dear Simkin, you should begin at the beginning," interrupted Soft; "Mr. Simkin should have told you, Sir, that for many years past we have carried on the business of—"

"Excuse me, Soft: we did not begin that business till 1811; but I will take it up from the very commencement. I will begin at the beginning, as Soft says. In the year 1808, we were engaged in an adventure—"

"Indeed, Simkin, you are wrong; I was not in the firm in 1808; and besides, that adventure had nothing to do with it!"

"I am not going to speak about the wools, Soft."

"Well, you know best, Simkin; but unless you tell how it has all happened, I am sure Mr. Sharpe will not understand our case: but tell it your own way."

"Thank ye, Soft; you're always a kind fellow. So, Mr. Sharpe, as I was saying, in the year 1808, we first became acquainted with Shycocke."

"No, indeed, Simkin: I must interrupt you there; for you are quite out. Shycocke arrived at Bristol, in the Twin Brothers, as supercargo, in June, 1809."

"I believe you're right, Soft: you always are. Yes: Shycocke arrived in 1809, with letters of credit from Puncheon, Lees, and Co."

"They were the shippers, Simkin."

"They were: do you remember the captain's name?"

"I think it was Hobbs."

"Surely not: wasn't it Dobson?'

"Hobbs or Dobbs, I'm pretty sure."

I saw no end to this, and took the liberty of edging in a word.

"Pray, gentleman, has Mr. Dobbs, or Hobbs, anything to do with your present embarrassment?"

"Embarrassment, Mr. Sharpe!" exclaimed Soft.

"Did you say embarrassed?" asked Simkin.

"We are by no means embarrassed, Sir!" indignantly cried both together.

"You mistake me; I thought you spoke of some unpleasant affair."

"Yes," said Simkin: "and a very unpleasant affair it is: isn't it, Soft?"

"It is indeed; and one we are by no means used to—" answered the partner.

"Pray, what is it, gentlemen?" and this plain question, rather abruptly put, surprised them into a plain answer.

"An attorney's letter," replied Simkin, in a most lugubrious tone.

"It is indeed," hysterically added Soft; "it *is* an attorney's letter, begging your pardon, Mr. Sharpe."

"Well, gentlemen, there is no great harm in that: here is a score of them (pointing to my desk), and you might eat them for any harm they would do you. Let me read it."

Mr. Simkin drew out his pocket-book, with as much solemnity as I have seen a reverend antiquarian produce a venerable Hebrew manuscript, and unfolded its various clasps, with the same gravity that the said antiquarian would slowly unroll the interminable vellum from its silver rollers; while poor Soft eyed the proceeding with a fixedness of gaze, that argued intense horror of the contents. I could scarcely forbear laughing outright at the awful delibera-

tion with which the letter of Messrs. Snappit and Smart was submitted to my inspection.

"Read it, Mr. Sharpe," said Simkin, with impressive dignity.

"Only read it, Sir," echoed Soft, with trembling eagerness.

I obeyed.

"*Manchester*, *Januarg* 21, 1827.

GENTLEMEN,

We are peremptorily instructed by our respectable clients, Messrs. Lomax and Co., of this place, to demand payment of the sum of £173. 5*s*. 2*d*., being the invoice price of the cottons consigned to your house at New York, in the month of May, 1825; and to inform you that unless the same is forthwith paid, together with 6*s*. 8*d*. for the costs of the application, we shall proceed against you, without further notice.

We are, Gentlemen,

Your obedient servants,

SNAPPIT & SMART."

"£173. 5*s*. 2*d*., Mr. Sharpe!"

"Together with six-and-eightpence, Mr. Sharpe!!"

"Forthwith, Sir! what do you say to *that?*"

"And without further notice, too!" half sobbed out Soft.

"Well but, gentlemen, I suppose you purchased the cottons?"

"Did *we* buy them, Soft?"

"I think not indeed, my dear Simpkin."

"Then who did? were they bought at all?"

"There it is, Mr. Sharpe! there it is!"

"There is where the shoe pinches, Sir!"

"It's all along of that rascal Shycocke. I was coming to him, when Soft interrupted me."

"Ay: 'tis all his doing, Simkin."

I foresaw another duet; but beginning to understand my new friends, I perceived that the only way to cut short the matter, was to cross-examine them for myself; and soon arrived at the simple fact, that this Shycocke was a great rogue, that had been carying on trade on his own account, but in the name of his employers, who had placed their foreign establishment at New York entirely under his care. But here was the difficulty: they had rashly confided to this agent powers so ample, that it was scarcely possible to contend that the goods had been supplied on *his* credit, and

not their own; while to recognize his agency on this occasion, by adopting a contract that he was not empowered to make, exposed them to similar demands, the extent of which could not even be guessed at. In this dilemma, I of course advised the bolder course of resisting the first application, even at the risk of costs.

"Well, Mr. Sharpe, I understand all you say; heigh-ho! I understand,—diddled either way; but I can't help thinking it best to pay the money."

"Sad job; but first loss is the least!" sorrowfully ejaculated Soft.

"Very true, Mr. Soft, if you can be sure that it is the last as well as the first."

"What did you say the costs would be, Sir?"

"I told you I did not know, Mr. Simkin: we must examine evidence in America."

"Evidence in America! oh dear, oh dear!"

"I think, Soft, you had better go to New York. Won't that do, Mr. Sharpe?"

"Me go to New York! bless me, Simkin, what do you mean?"

"It would be a pleasant trip, Mr. Soft."

"Pleasant trip, Sir! la, Sir! do you know what it would cost?"

"Can't you do without evidence, Mr. Sharpe?" (*coaxingly.*)

"It is just possible that we might contrive by a fishing bill in Chancery—"

"Chancery!" groaned Simkin.

"Chancery!" screamed Soft. "Throw us into Chancery! Heaven have mercy on us! We had better pay the money, and have done with it, Simkin."

"I'd rather pay it ten times over," replied his partner, "than get my head into Chancery. How can you talk so, Mr. Sharpe? but I see you were only joking."

"Indeed I never joke on serious business;" a great lie by the way, for which my conscience pricked me; for I always joke where I can: but this was clearly no fitting occasion, as I seemed as certain of losing my clients, as they were of losing their money; so I put a grave face on the matter, and continued.

"It does *not* cost much to file a bill in Chancery, and compel an answer."

"You'll not make me believe *that*, Sir, very easily; there's my poor brother's orphans have been in Chancery these twelve years, poor things! and all their little fortune as safely

under lock and key, as if buried in their father's grave."

"And I too could tell a dismal story like that, couldn't I, Simkin? Oh dear me, I little thought how this unhappy business would end! my poor dear children! we shall all get into Chancery, I see that, if we don't pay the money, Simkin."

"But surely, Mr. Sharpe, you can tell us what the Chancery will cost, as you say it is not much?"

"Oh, dear Mr. Simkin, good Mr. Simkin, do pay the money, and think no more about it?"

"Nonsense, Soft! for shame, Soft! do act like a man! What *will* it cost, Mr. Sharpe, this Chancery business?"

"The bill would be very short, but as their answer might be long, and you would, of course, have to pay their costs too, it may—"

"Pay *their* costs too!"

"What! Messrs. Snappit's and Smart's costs! Then I've done with it, Mr. Sharpe; I've done with it; that's flat: I'll run all risks; I'll see them hanged first!"

"Yes, we'll run all risks, Mr. Sharpe: thank'ye, Simkin, you are always the wisest

man, I know. Very sorry we have taken up so much of your time, Sir. What do we owe you, Sir? Pray let's go, Simkin; let's go at once. You'll send in your little bill, Mr. Sharpe, for this morning's advice. Good day, Sir."

And away went the silly pair, each afraid lest a longer stay should convince the other of his folly. They paid the demand; in the course of the year they settled a similar claim for nearly two hundred more: and in the year following they liquidated divers other debts of Mr. Shycocke, amounting in the whole to about £1,500: all of which might have been saved by resolute defiance *in limine*.

This same moral cowardice displays itself in a hundred ways, even in men otherwise clear-headed and strong-minded: a paroxysm of fear at the mention of the Court of Chancery does not much surprise one. That unlucky tribunal labors under so much obloquy both merited and unmerited, that *facilis decensus Averni* is retorted on you by every client to whom you speak of equity; and not without reason. I once came into a suit that had survived three solicitors, two generations of clients, three chancellors, (Lord Eldon *inter*

alios) and more than half the masters. It fairly promised an annuity to my grandchildren; but like a conscientious fool as I was, I compromised it in the second year of my acquaintance with its very peculiar merits, and saved £2,000 out of the fire for somebody, though many a year passed over before we could discover who the "somebody" was! The Court of Chancery, however, though bad enough in all conscience, is not the only bugbear that frightens clients.

"I have been swindled, Mr. Sharpe, out of five hundred pounds!" exclaimed my friend Wyatt, on entering my office,

"I am extremely sorry to hear it: how has it happened?"

"The old story—a friend wanted money—not convenient to lend it—my name would do—gave him my acceptance—proved a greater ass than myself—a Jew broker has discounted it by bolting."

"A bad case, certainly. Have you any clue to the rascal's retreat?'"

"Don't know—might be found perhaps—what then? Find him at one end of the world, and the bill at the other!"

"Come, come, you jump too fast and too far. What date is the bill?"

"Six months."

"Well, you have a chance yet; your credit is good; but even with you, a bill for £500 at six months will wander about some time before it finds a home. When did it happen?"

"Yesterday."

"Then give me the names, and I'll find the paper."

"Can't get it back, if you do

"Not without paying a trifle

"How will you manage?"

"Leave that to me."

He was content to do so, and furnished me with all particulars. I happened at that time to have a friend in the Bench. Friends of this sort are a great nuisance; but there are times when they can do good service. I soon learned through him, the names of the whole gang with which the broker was connected; and was not long in discovering the holder of the bill—an innocent, *bona fide* holder, of course. A negotiation was commenced, but £200 was the least he would take, and exactly four

times more than I was disposed to give. My client called on me the following morning.

"So, Sharpe, you have found the bill?"

"Yes, for £200."

"Pay it with all my heart."

"You shall do no such thing."

"Can't help myself—must pay—no choice."

"You must show fight."

"Show fiddlesticks—neither fight nor law for me—rather lose the £500, and £500 to the tail of that!"

"You called yourself an ass yesterday; you'll prove yourself the prince of asses to-day, if you pay the money."

"What *can* I do?"

"I have already taken out a summons for the fellow to account for his possession of the bill."

"Summons!—magistrate!—Bow Street!—police report!—Times paper!—explanations!—advertisements! No, no, no! I'll see you and the bill at Old Nick, ere I run this gauntlet: pay the money, and have done with it. Here's the check!" (*sitting down to write it.*)

I reasoned and expostulated, but in vain. I felt the question of credit was something,

though he was not in trade; but two hundred pounds was far too large a sacrifice for mere credit's sake with him. I shook his resolution for a minute, by setting one fear against another.

"What will Mrs. Wyatt say to such folly?"

"Yes—sure enough—something in that; but (*after a pause*) she shan't know it."

"Why, you have told her already, haven't you?"

"Not exactly—rather afraid—least said soonest mended—ought to tell her though—sure to find it out—but those infernal police reports—she'll go mad, that's certain—no peace for a twelvemonth. I'll pay the money, so take it."

I had no alternative; but I resolved to do my best. I summoned the man in defiance of my client; and had he had courage enough to face the matter, I should have got back the bill for nothing, or at least have impounded it safely. He got off better than he deserved, for just before the hour of attendance, I received an anonymous letter, offering to return the bill for a hundred. I replied that I would give fifty; and at the police-office door, the bill was put into one hand, while I gave a

£50 note with the other! My hare-hearted client was a liberal one, however, though odd-tempered: he pressed on me a fee of the same amount, and because I peremptorily declined it, quarrelled with me for a year! I cared little for this, knowing that his good sense would eventually bring him round; as it did; when he honestly told me that he had taken the next dilemma in which he found himself, to our mutual friend, Mr. Lowestoff, because I was "too proud to be paid for my trouble!"

Some men show their timidity in a far more reprehensible form, and instead of honestly trusting the attorney whom they affect to consult, are laying traps for him, to measure his skill or his integrity. I was often exposed to this low-minded cunning in my earlier days, though now that I feel firmly seated in my chair of state, I should be sorely tempted to kick such fellows out of my office. On the whole, I incline to recommend this as the wisest course to pursue at all times, however scantily filled our attendance-books may be. A trader in a very extensive business called on me on one occasion, telling me that he wished me to prepare a new agreement with one of his commis-

sion-travelers, and he produced the old one, as my instructions. He was not an habitual client, but one of those sneaking fellows that if they meet you by accident, always have a legal point on which to catechize you, without the fear of fees before their eyes. They pin you up in the corner of a drawing-room, or edge in their chair next to yours at the dinner-table, to tell a long cock-and-bull story about a stray parcel; or sometimes they cross you in the street, seize you by the button, and incarcerate you in the doorway of a pastry-cook, till they have run through the pedigree of their great grandmothers, as preliminary to a "just tell me what you think" of their right to a lapsed legacy of fifty pounds, "supposed to have been left by the fourth cousin of an uncle's aunt, who died six months ago." My client belonged to this class.

"If you see no objection to this agreement, Mr. Sharpe, I want a new one on the same model; as you see the time here mentioned is expired."

"I see no objection to it (hastily glancing it over): it is somewhat vaguely expressed, but if you have understood each other so long, it is best not to alter it."

"It's all right then, in point of law?"

"Yes: except that it is unstamped; but that is of little consequence: when do you want the new draft? Before I prepare it, it would be better to see your traveller on the subject."

"Oh, he is out of town, and I am in no hurry! If you will just sign your name to this old agreement, as being free from any legal objection, that will satisfy him, and save trouble."

I thought the request an odd one; but having had frequent experience of the paltry economy of the man, I concluded that his only object was to save expense, by inducing his traveller to abide by my opinion, without the formal discussion and settling of a new instrument. I therefore wrote on the agreement a sort of certificate, that I saw no legal objection to the agreement, and he took it away with him. The next day explained the whole transaction. Two attorneys called on me, nearly at the same time. We were all well acquainted. Mr. Stubbs entered first.

"On my word, Sharpe, I am much obliged to you."

"What's the matter?"

"For telling Mr. Crewkman that I am a consummate fool."

"Telling him you are a fool! I told him no such thing: what have *you* to do with Crewkman?" and before the question could be answered, in rushed Mr. Hobbs.

"Sharpe, I've a crow to pick with you! Stubbs, glad you are here; I am sure *you'll* not countenance such dirty practice!"

"Hoity-toity, my good friends! what ails you both?"

"You are a pretty fellow to ask, after trying to cheat my poor client out of his cause and his senses also!"

"What, is Crewkman *your* client, too?"

"My client! no indeed: nor did I dream that he was yours, till yesterday."

"Then he *is* your client, Sharpe?" said Stubbs. "Well, I am ready enough to hand over his papers, as soon as you get the order; but I must say it is shabby work to rob one of his clients by such low artifice as this."

I was all amazement. "Let us talk without prejudice, gentlemen, and we shall understand each other: at present, it is clear we are all in the dark."

The certificate signed by me, the day before, was produced by Stubbs. I admitted it to be mine, and explained the circumstances under which I gave it. It seems that Crewkman and his traveller were involved in litigation, on this very agreement: the one contended that it amounted to a partnership, and claimed an account of profits: Crewkman denied the partnership. Stubbs had advised him that he was wrong, and recommended a compromise. Distrusting Stubbs, he had come to ask my opinion, without ever calling my attention to the real point at issue. He took the opinion to Stubbs to challenge him with ignorance; and then to his traveller, to impress on him the hopelessness of his suit, and work him into a compromise. I do not now recollect how the matter terminated.

I have often known this underhanded dealing practiced by men who think themselves wiser than their solicitors; and in most cases, they bring their own punishment, in getting conflicting advice, by submitting one state of facts to one attorney, and another to another; unconscious themselves of the importance of minute accuracy, they report these contradic-

tory opinions to their friends, as edifying illustrations of the "glorious uncertainty of the law!" There is, however, another less frequent, but more galling way of testing their adviser's judgment; more galling, because it implies a doubt of his honesty of purpose. I have had a client consulting me very gravely on his case, and after I had given it the closest attention, and reluctantly told him that I thought him wrong, he has fairly turned on me, with the laughing avowal that he had deceived me, and reversed his position, being the intended plaintiff, and not defendant, in the matter; that he wanted to be sure that he was right, and had therefore misrepresented his position in the dispute! A cautious man will not always, nor often suspect, but he will always be prepared againts traps laid for him by his own client.

The mention of this habit of appealing from one solicitor to another, without fairly apprising either party of the fact, recalls to my mind an affair of earlier days that may teach my readers to avoid, as much as possible, another class of clients whom I shall designate as the indiscreet. In a certain sense, all clients except those who come to you on "preventive duty,"

to be protected against anticipated risk, are indiscreet; and it is to repair their indiscretion, that your aid is wanted: but there are some instances, in which it is difficult for an attorney, at least a very young one, to avoid involving himself in the folly of his client; any man, however, might innocently have got into the following scrape, whether professional or not.

CHAPTER IX.

"Quomodo ergo id quod fit cæco casu et volubilitate fortunæ præsentiri potest?"—Cic. de Div.

While my thoughts were yet but little occupied with the cares of business (and alas! I was full thirty ere business had much to do with them), I used to ramble about at parties and soirees, in the certainty of finding amusement, if I did not find clients. On one of these occasions, I fell into company with a very agreeable lady of four-and-twenty. I knew that she was engaged, and shortly to be married: hence love had nothing to do with it; but I played the agreeable so delightfully, that the fair creature, knowing I was a "lawyer," as they are all pleased to call us, told me she wanted to consult me about her affairs. It is of little use preaching about it: I am going to read a very instructive lesson; and yet I am

quite certain that there is not one of my readers to be found, under seven or eight-and-twenty, who will not as assuredly as I did, fall into the same error, if he has the opportunity. She declared that she was serious; it is quite impossible to advise while one is waltzing—the head is too giddy, to say nothing of other enchantments; so I invited her to call on me the following day. She came, chaperoned by the lady at whose house she was staying, and who was as young and yet prettier than herself. I must give her name a *nom de guerre*, and I will call her Mrs. Chartres. My fair client's object was *bona fide* to ask me her own position in respect of some proceedings in an amicable suit, in which all her family were involved, but which as they supposed, was conducted by the family solicitor with somewhat less activity than was desirable. I think she called on me twice after this. It is very many years ago, and I cannot exactly remember how many times we met; but it was sufficiently often to make me familiar with the nature and position of her property. About six weeks after our first interview, I received a very singular note from her. She resided ten miles from town,

and she wrote to request that I would ride over to see her the following day at three o'clock, to advise her on *urgent* business. There was so far nothing extraordinary; but the note concluded with saying, that her mother's house was so full of friends, that she could not hope to talk with me there, with any convenience, but she would call on me at the inn in the town! I hesitated long before I could decide on the proper course to take; but as the word "urgent" was twice underlined, it seemed cruel to refuse; and notwithstanding she had imposed confidence on me, I determined to call on our mutual friend, Mrs. Chartres, and consult her. I showed her the letter. "You need not entertain any doubt on the case," said Mrs. Chartres: "I know that her lover has had a quarrel with the mother, and the marriage has been put off; she wants you to be the mediator." "Very well; but I think her lover would scarcely like this stolen interview at an inn, nevertheless; will you go with me?" "With all my heart;" and we ordered our horses: both her horses and mine were at livery at the same stables. "We have a few friends to dine with us at five; will you join us at dinner?" I

accepted her invitation. Thinking it might occasion some tattling below stairs, at our friend's expense, Mrs. Chartres would not take her groom, though he had always attended us in our rides, which were not unfrequent. When we arrived at the inn at * * * * *, the young lady was not there. We waited nearly an hour; and began to feel uneasy, when the damsel appeared.

"Bless me, Sophia! what a figure you have made of yourself!" exclaimed Mrs. Chartres. "One would think you had got all your wardrobe on your back!"

"So I have, except a trunk that I have had smuggled here!"

"What is it all about! where are you going!"

"I am going off!"

"Where? when?"

"To Yorkshire — to-night!"

"Not with me, I presume, Miss Danvers?" I asked, half laughing, but really uneasy.

"No, Mr. Sharpe; not *all* the way; but I do want you to put me in the mail."

"And why did not Mr. Douglas meet you himself?"

"Because he is watched at every step."

"Was this then, the 'urgent' affair you wanted me to advise in?"

"Not altogether; Mr. Douglas wished you to prepare something for me in the way of settlement, to take with me, for we shall be married the day after to-morrow."

"Your mother of course knows nothing of this frolic. I hope you have left a letter for her?"

"No, I have not; she went yesterday to my aunt's, at Croydon."

Both Mrs. Chartres and I exerted all our powers to divert her from her purpose, but in vain: she had ordered a chaise, and it was at the door; we continued arguing with her for about an hour, and the most we could obtain from her was to leave a letter for her mother, which nearly another hour was spent in preparing. the next point was, whether it was right to accompany her to the coach! It was already six o'clock, and the spring not far advanced; consequently it was growing dark, and would be quite so by the time she reached London. I could not allow Mrs. Chartres to ride home, a distance of ten miles, unattended; but the good-natured girl put an end to the

difficulty, by saying she would accompany us in the chaise. I therefore sent our horses back to their stables by the ostler of the inn, with a verbal message, which the blockhead forgot. We arrived just in time to secure the only remaining place inside the York mail, and giving Miss Danvers a few hurried lines to Mr. Douglas, to suggest the sort of prenuptial agreement it would be right to make, we took our leave of her. Some accidents impeded their marriage for a short time, but it soon took place, and I believe it proved a happy one.

Now, however, came the fun of the affair. So intent had both of us been on the discussion with Miss Danvers, and so absorbed by the interest we felt in her strange position, that Mrs. Chartres and I had alike forgotton the dinner, the party, the time, and every thing else. Meanwhile a curious scene was acting in Bryanstone Square. Four o'clock came.

"Where is your mistress, Anne?"

"She is gone out for a ride, Sir."

"When did she say she would return?"

"She only told me in good time to dress, Sir."

"Who was with her?"

"Mr. Sharpe, Sir."

Half-past four!

"Is Mrs. Chartres come home?"

"No, Sir."

"Very careless! did John go with her?"

"No, Sir."

"Very strange!"

Five o'clock, and no Mrs. Chartres! Half-past five! There were Mrs. Langston, and Miss Langston, and Mr. Henderson, and the two Miss Dixons, and the Rev. Doctor, and half-a-dozen besides; all simpering and all wondering, and all divided between curiosity and hunger, with sundry good-natured suggestions, and explanations, and sympathizing consolations; some would wait half-an-hour longer, and some would order up dinner; for "dear Mrs. Chartres would be so distressed;" while the poor husband smiled and giggled it off; and Mr. Chetwyn, her father, who began to suspect it was no jest at all, "didn't like such jesting, and rambling about after dark; and dinner spoilt while that brainless young Sharpe was leading his daughter scampering about the country, etc., etc.: if I were you, Tom, I would lock her up whenever that

scape-grace turned his horse's head this way." This was giving so pointed a turn to the affair, that by way of closing the discussion Chartres ordered up the dinner, and handed down the ladies; but matters began to be uncomfortable, and Chartres soon made them worse by suddenly exclaiming, as the clock struck seven:

"I see how it is! they have had an accident: and running to the bell, ordered John to go instantly to the stables and inquire if the horses had been sent home, while the other servant brought a chaise to the door to be promptly ready to go in search of the sufferers.

"It must be so! dear Mr. Chartres, now don't distress yourself, pray don't."

"That we should never have thought of this sooner!"

"Poor dear Mrs. Chartres, what she must suffer!"

"Well, I hope she has not broken her leg!"

"Now be composed, Mr. Chartres, all will be well!"

"Had you not better send for Mr. Brodie, immediately?"

And half a hundred similar speeches were simultaneously poured forth by all their sweet

voices united; Chartres striding from his chair to the window, and back to his chair, and Chetwyn sitting silent, till he groaned out, "That's the only word of sense that's said; send for Brodie, directly." In the midst of the hubbub re-entered John.

"Are the horses come back?" thundered out Chartres.

"Yes, Sir."

"Oh la! and is she killed? where is she hurt? get her bed ready, and call Anne," etc., etc., etc., while John stood mute, but with a sort of half-repressed grin on his face, that at once dispelled *immediate* alarm about her safety.

"Are the horses hurt?" asked Chartres.

"No, Sir."

"Who brought them?"

"The ostler at * * * * * *."

"Any message?"

"No, Sir."

"Did you ask the man?"

"Yes, Sir.'

"Don't stand twisting your mouth that way, blockhead, with your 'yes' and 'no!' Tell us what passed."

"The man said, Sir, as how mistress and Mr. Sharpe—" (*pausing.*)

"Speak out, Sir;" shouted Chartres.

"Gone off, Sir, in a Dartford chaise."

"Impossible!" groaned Chetwyn.

"Oh la!" "oh dear!" "how shocking!" "how very odd!" "how sad an event!" screamed Miss Langston, and Mrs. Langston, and the two Miss Dixons, in every variety of intonation.

"Awfully wicked!" observed the Rev. Doctor, deliberately exhausting a glass of port.

"Order four horses to the chaise at the door! Henderson, you'll accompany me — Dover Road! do you hear there?" and so saying Chartres left the room; mounted the flight of stairs in a hop, step, and jump; hurried on a great coat; and was equipped for Calais in less than ten minutes. Meanwhile the ladies hystericised, and fainted, and ran this way and the other way, as ladies will do on such occasions; and the ladies' maids chattered, and comforted, and cloaked as fast as they could; while hartshorn, and sal volatile, and burnt feathers, were poured and scattered here and there, and the whole house one Babel of confusion; not one

of the party dreaming of going, in spite of preparation for it, while a chance remained of gleaning more food for curiosity and scandal.

The hubbub had scarcely at all subsided, when a loud rap at the door announced a visitor. "Not at home!" exclaimed Mr. Chetwyn, to prevent intrusion at such an unseasonable hour: but the mandate was unheeded in the general confusion below stairs. The ladies hearing footsteps ascending resumed their chairs, with as much calmness as they could muster. The door opened; and in walked Mrs. Chartres, more radiant with smiles than ever, though not a little surprised at the strange chaos which seemed to reign; while I followed close behind her, as cheerful and composed as if nothing had occurred to disturb me.

"Very extraordinary, Mrs. Chartres! very strange conduct this, Mr. Sharpe!" said her husband sternly.

"Where the devil have you been?" cried her father.

"Dear Mrs. Chartres!" exclaimed all the ladies at once.

"Chartres," I said, "your wife is tired:

take her up stairs, and she'll give you a good hour's laugh : " for though this *denouement* had never once occurred to either of us during the whole of the busy scene in which we had been engaged, I saw, by a glance of the eye, what it all meant.

"And now, Mr. Chetwyn, order us some dinner if you please; for we have not tasted any to-day."

Manifold indeed were the inquiries, and ardent the curiosity—all unbonneted and unshawled again, but we could not gratify them : though when Chartres re-entered the room ten minutes after, and shook me by the hand most cordially, laughing all the time, and loudly commending my chivalry, the fair creatures almost forgot their disappointment that there was no elopement after all, in their unfeigned delight at the returning spirit of domestic harmony and love.

CHAPTER X.

"Junonem interea compellat Jupiter ultro." — ÆN. X.

INDISCRETION is a failing not limited to youth or sex; nor is it by any means identified with careless indifference about every-day matters of pounds, shillings, and pence. Mr. Bumby was an early client of mine, for whom I felt considerable regard. Accident led me one day to his shop to purchase some trifling article of jewelery. I have a natural disposition to indulge in good-humored gossip with strangers, where circumstances pave the way; and occasional purchases, accompanied with friendly chit-chat across the counter, laid the foundation for a professional connexion between us, of no very important extent, yet profitable to me and satisfactory to him. Shortly after I became acquainted with him, Mr. Bumby retired from

business, having scraped together a sum of twelve thousand pounds, which he considered amply sufficient provision for the evening of life, having no family but his wife and a married daughter comparatively independent of him. This daughter however, had two children; and her husband was somewhat speculative and scheming in business. Bumby was a blunt, honest fellow, turned of seventy, and on the whole, acute as well as sensible. His wife was full twenty years his junior, good-looking for forty-eight, and, I believe, sincerely attached to him; yet her attachment was by no means of that high caste that contemplated self-immolation on his tomb: she obviously reckoned on a long survivorship. One of the first duties that Bumby proposed to discharge on relinquishing trade, was to make his will; and he called on me with his wife to give the usual instructions.

"You see, Sharpe, I've nothing else to do; so I may as well set my house in order."

"Well, Mr. Bumby, that's a good 'un! as if I hadn't always kept it tidy as need be, though I say it that shouldn't say it! House in order, truly! it's never been out of order

these three-and-twenty years—shop, counter, master, and all!"

"Mind your own business, Betty, and don't speak till you are asked. I can talk to Mr. Sharpe without your help. I want to make my will, Sharpe."

"There now, Bumby, that's coming to the point! we want to make the will, Mr. Sharpe."

"I shall be happy to attend to your instructions, Sir: I believe I know generally what your property is?"

"Let's see. there's the consols, £7850, and the reduced, £2300, and the India bonds, and the—"

"Don't forget the policy, Bumby! you remember the policy?"

"Deuce take the policy and you too! you are always harping about the policy. I believe you'd see me hanged to-morrow to get hold of that eternal policy."

"You needn't snub me that way, Bumby," whimpered his loving wife.

"Well, Sir;" interposing, as I always do to escape a scene, "there are the India bonds and the policy."

"And the shop and dwelling-house in

Crooked lane," added Mrs. Bumby, but in a tone somewhat subdued, though still sharp and prompt.

"What's that to you, Betty? I shall do as I please with the shop and dwelling-house in Crooked lane."

"To be sure, Bumby, no doubt: but you always said that Crooked lane would do for me, you know."

"I presume no part of the property is in settlement?"

"The more the pity!" softly ejaculated Betty.

"Say another word," rejoined Bumby angrily, "I'll make no will at all!"

"And how would the policy go *then*, Mr. Sharpe?" retorted his wife.

"Before I had time to answer, Bumby took out his pocket-book, and slowly fixing his spectacles, read from it his instructions, to the effect that his widow was to enjoy the interest of the whole for her life, and then it was to go to their daughter.

"But here's where it is, Sharpe; Betty and I, you see, can't agree about the way to give it to our girl; that wild chap her husband,

may die or be hanged, and then the fool would marry again, and her children starve in the workhouse; so I should like to tie it all up for them, out of harm's way: but Betty is for giving it her outright!"

"And so I would, Bumby; if the girl don't marry again, she'll do worse."

"Ay, ay: she takes sorely after her mother."

Mrs. Bumby knit her brows, pursed up her mouth, fanned herself with her pocket-handkerchief, and pendulated her body to and fro in her chair with that awful dignity, which in ladies of a certain age and considerable diameter, argues preparation for an explosion of no ordinary force. I hurried to the rescue of her unlucky spouse.

"I'll take a note of your instructions, Mr. Bumby, and—"

"You'll please to hear *me* too, I hope, Mr. Sharpe?"

"Certainly Ma'am: but lest I should forget—"

"You'll please not to forget the policy, Mr. Sharpe?"

"He's not likely while you are by, Betty."

"I was speaking to Mr. Sharpe, Mr.

Bumby! I suppose I may do *that*, Mr. Bumby: Though Sally do take after me, Sir, I'm glad she takes after nobody worse! but 'tain't every child as knows her own father, Mr. Sharpe! no wonder Sall don't! Mr. Bumby, you're a wicked man, you are! you are a vile, wicked, old man! you don't deserve to have a young woman like me for a wife! me, who has been the kindest, fondest wife as ever loved a man old enough to be her father! you wicked wretch! you unkind, cruel monster!" and she blubbered outright.

"Well, well, Betty: I meant no harm; so say no more about it," cried Bumby; and ashamed of her, and more than half ashamed of himself too, he bustled up, pinched her chin by way of coaxing, and took her off, telling me he would call again in a day or two. I fancied that there was something more in this little conjugal quarrel than met the ear, and was rather curious to get at the bottom of it. Bumby's visit the next day explained it.

"Now, Mr. Sharpe; now I can speak comfortably when we're alone, you know. Betty's a good soul, but a little up now and then, like a bottle of soda-water, all flutter, splutter, and

fiz; but does one good after a glass too much: so let her have the policy, Sharpe, as she's set her heart on it; but she shan't have the rest, except on my terms. You understand, Sharpe? 'Twas all my eye about Sally: only we didn't like to tell you. The girl don't want the money till her mother dies—in good business—only two children—can do well enough without: but I know where the land lies: my young woman wants to marry again when I'm gone, Sharpe; and I've no mind she should: or she'll squander it all away while you wind up a watch. So tie it up close as you can; and when she dies, let her do what she will with it."

This was not unreasonable had Mrs. Bumby been somewhat younger, but I suspected it would prove very unpalatable to her; and as it was obviously impossible to keep the intended testamentary arrangements from her, I apprehended it might lead to a domestic discussion, not very favorable to the comfort of my venerable client. I ventured to throw out a hint of this.

"I think I know my own mind best, Sharpe! all you have to do is to put it in black and white."

"It is far from my wish to exceed my province, but considering Mrs. Bumby's advanced age, a second marriage seems not very probable."

"She *is* a young woman, Sharpe; a *very* young woman, and 'tis as much as I can do to keep her quiet; what she will do when I am gone, Heaven knows! marry you, perhaps! but you shan't clutch my money if you do."

I now perceived that jealousy was at the bottom of this extreme caution, and jealousy is impracticable at any age, so I gave way; merely observing that I felt certain that his wife's remarkable fondness for him ("fondness" is the only appeasing word on such occasions,) precluded all idea of a new engagement. This pleased him, and he left me in good humor. In the course of the same morning his wife repeated her visit.

"So my dear Bumby has been with you again, Mr. Sharpe?"

"He has, Ma'am."

"And what more has he told you?"

"You are to have the policy!"

"He is a dear good man when left to himself —and about Sally?"

"He is quite resolute there."

"Then I am to be tied up after all!" (sharply.)

"You have committed yourself, Mrs. Bumby, but it does not matter, for your husband has told me that the question was about yourself, and not your daughter."

"To be sure it is, Sir, and a very important question too! a woman at my age does not like to be treated like a boarding-school miss, who would spend her money in sugar plums."

"At your age, Mrs. Bumby! why you are young enough to marry again, and have a family to bring up!"

"La! Mr. Sharpe, (simpering,) how can you say so? I declare I never dreamt of such a thing: but if you really think so, and I *have* been taken for Sally 'tis true, no wonder you agree with Bumby about the will."

"Indeed I rather opposed him till I saw that he suspected *me* of a lurking interest in the matter."

"That can hardly be, Sir, (bridling up a little, but still simpering sweetly,) it is time enough indeed, to talk of such things! but good morning, Mr. Sharpe; I must have a little more explanation with Bumby!"

The next day I paid the penalty of my folly: they had their explanation truly, and arrived at a very good understanding by throwing all the blame on me! They again called together. Mr. Bumby had mounted my stairs with all the vigor and speed of a man determined to find immediate vent for indomitable wrath: he was corpulent, short-legged, and a little asthmatic, so that the unwonted exertion, coupled with much excitement, brought on by the said explanation, almost deprived him of the power of utterance, by the time he had opened my office-door.

"I'm come, Sharpe, to tell you that"—(ugh! ugh! ugh! tearing his great coat hastily asunder,) "to tell you, Sir,"—(ugh! ugh!—the cough was redoubled, and Mrs. Bumby, who had seated herself with the dignified pendulation I have before described, untied and finally removed his neckcloth) "to tell you to your impudent face"—(ugh! ugh! ugh! He could not get on, and I rose to offer him a glass of water, but he motioned it away with his hand so abruptly, that all the contents of the glass were spilt on that abdominal projection in which most men exult after passing their grand

climacteric, which his tender wife, in her anxiety to procure fair play for his depressed diaphragm, had exposed to view in all its natural rotundity, by unbuttoning not only his vest, but the waist-band of the lower habiliments! I can't guess, indeed, how far her tenderness might have carried her, had not the sudden ablution operated like a charm, and instantly restored the faculty of speech in all its eloquence.

"Confound the jade! would ye drown me before I have made my will, Betty?"

"No, dear Bumby, nor after either; but you were choking: be composed, Bumby!"

"Now, then, Mr. Bumby, what is your complaint of me?"

"Complaint! what right have you to make love to my wife before she is a widow? and she won't have you *then*, I can tell you, Sir."

"Not so old, neither, Sir," added the lady, "though you *were* pleased to talk to Mr. B. of my advanced age!"

"Talk to my wife of a young family, Sir! I'm old myself, or I would teach you better manners, puppy!"

"Though some folks *have* taken me for my

daughter, Mr. Sharpe, I have thought of no such nonsense for more than a year gone by, and I don't mean to think of it again, I assure you, Sir!"

"Nay, nay, Betty, speak the truth; you think of nothing else but that and the policy: speak truth, and shame the devil, if you can't shame Mr. Impudence, there!"

This was a diversion in my favor, for Betty blushed, if her natural crimson did not belie her, and at all events was silenced; while Bumby chuckled over his repartee, buttoned up his unmentionables, and stared at me with such a ludicrous mixture of self-complacency, defiance, and doubt in his face, that I could not help myself, and indulged in a hearty laugh at them both. A laugh when cordial, is infectious, and Bumby laughed too, nor could his wife wholly resist it.

"So you have been comparing notes, and like a couple of fools retailing to each other all your conversations with me? I heartily wish Mrs. Bumby may never have another husband, or another child as long as she lives, nor you another wife to cool your stomach, and save you from choking. But you shall agree on your

instructions before I make your will." And so they finally settled for themselves; the will was never made. Mrs. Bumby died about three years after, and the old gentleman soon followed her, intestate! but he continued to be my client till he died.

CHAPTER XI.

"I hope well of to-morrow."—ANTONY AND CLEOPATRA.

HAPPEN what will, an attorney must never lose his temper or his self-possession with a client: they often try one shamefully, but we must put up with all, save perhaps in some extreme and peculiar cases. If a client challenge you with losing his cause, or advising him rashly to embark in litigation, you may be sure, if your conscience honestly acquits you, that this is preliminary to a quarrel about your bill, and possibly to a taxation of it, and then show as much spirit as you please. I have always armed myself against such assaults with clients that I at all suspected, by addressing a letter to them previous to the suit, in which, after stating the facts of the case, as they have reported them, I have recorded my opinion on the course that under the cir-

cumstances they ought to take. It is very satisfactory to be able to appeal afterwards to such a testimony to your own straight-forward proceedings. After all, however, clients are entitled to be captious, impatient, and unreasonable; it is foolish as well as unjust on their part, for they often weary and alienate the sympathy of their attorney, and thus render him less energetic in their service; they sometimes bewilder him, and thereby make him uncertain and indecisive; nor will any client of liberal feelings forget that there may chance to be twenty other matters going forward in the office, every one of which may be as urgent and as important as his own: but be the client what he may, the attorney must humor and indulge him, except in one point; a nervous and fidgety client should never be allowed to be present when his cause is tried; the chances are ten to one that he ruins the best case ever laid before a jury, unless his counsel is endowed with more than common firmness: he will never "let well alone," but persevere in prompting his attorney and his counsel, till he makes the jury share the distrust that he feels himself.

A beginner has one advantage which he never enjoys in after life, if he acquires any business at all; he is allowed the reputation of being able and willing to devote *all* his time to a client's interest. It is very true that this reasonable expectation is formed by nineteen clients out of twenty, whether their solicitor is old or young; a new man, or established in credit and connexion; but it is certainly a powerful inducement to come to a juvenile attorney, provided he is clever, honest, and all that, that he has nothing else to do. Hence it often arises that in cases of long acumulating confusion, where correspondence, at first friendly and explanatory, and then expostulatory, and finally hostile and menacing, has brought the parties to that happy position in which neither knows what the other means, or when the squabble began, or where it is to end, they seek out a solicitor not so much to advise on the *quid agendum*, as to unravel the web which conflicting interests, aided by ill-temper, have woven around them; this duty peculiarly falls to the lot of a young man who "has nothing else to do!" Yet it is in business of this description that I have most

frequently found clients of all others the most difficult to guide; I can find no happier term for them than "the class despondent." In the majority of cases despondency springs more from temper than from a conviction of insuperable difficulty. One disappointment, of slight moment, and only on a collateral issue, is speedily followed by a second, possibly by a third; though the merits of the dispute are still untouched, a sanguine or anxious man attaches to every interlocutory matter an importance that does not belong to it; he makes up his mind that all must turn upon that single question, and if decided against him he becomes *abattu*. We have no English word exactly to convey the meaning, unless it is the expressive slang, that he is "floored." When two or three defeats of this kind have followed each other rapidly, however trifling they may be in themselves, and the result most probably of some pettifoggery of a grasping opponent, practiced to obtain a dirty profit of three or four pounds in costs by way of penalty for an oversight or blunder, the client becomes disheartened: he is "an unlucky man"—"nothing ever succeeds with him," and his con-

fidence in his solicitor is imperceptibly shaken, though he would be at a loss himself to say why. It is principally in proceedings in equity or bankruptcy that cases of this description occur; partly because in modern times a practice of doubtful propriety, though undoubted convenience, has crept up of disposing of a cause by a sidewind motion; but chiefly because such proceedings, from their procrastinated and infinitesimal character, admit of much appeal to the court upon collateral and incidental points. There is considerable difficulty in dealing with such clients: if you give into their despondency with misplaced sympathy, you run the chance of confirming them in their secretly cherished though unacknowledged purpose of compromising the affair for themselves, at whatever disadvantage; and you are *privately* accused of the heavy loss they sustain. The injury derived from these whispered charges, industriously circulated to excuse their own irresolution, may prove incalculably great throughout your whole connexion. On the other hand, if you sustain and encourage their desponding spirits, you subject yourself, in the event of failure, to the

certain imputation of influencing your client to unprofitable and endless litigation for self-interested purposes, while "he was all along willing to settle it, but his attorney would not let him." I can suggest no better rule for an attorney to follow in cases of this kind than honestly to inform himself, by the opinion of an honest counsel, by which I mean a man who will give you credit, which few of them will do, for consulting your client's interest in disregard of your own, what is the proper course to pursue, and to take that course, utterly regardless of any reproach which the client may subsequently make.

There are clients, however, of the class despondent, who are neither chargeable with temper nor injustice, and such men impose on their legal adviser duties more akin to the physician's or the clergyman's than the lawyer's. I fell in with one of this description in very early life. I hate a sentimental tragedy,—"scenes" of all kinds are a positive nuisance; but as professional adventures, when truly related, must partake of every hue, my readers will excuse me for troubling them with one; we shall turn again to fun with redoubled zest.

My friend Harris was a young man of unusual attainments: but the *res angusta domi* did not allow him to devote himself to professional life, for which, in any quiet and unobtrusive branch, he was peculiarly adapted. It often occurs to such men, that they follow literature or science just to the extent that humanizes the character, and gives exquisite refinement to the mental tone, but falls short of imparting that vigor of mind which can discriminate justly between merited and undeserved reproach, so as to set at naught the one, while they shun the other as the severest of human calamities. Harris found himself at the age of five-and-twenty, possessed of about two thousand pounds, the bequest of a female relative; having up to that period, *languished* away a petty patrimony of less than a fourth of that sum, spinning it out as best he could, till the patronage of a distant connexion could find him "an appointment" equal to his birth and education.

Harris's understanding was too good not to be aware that two thousand pounds would go but a little way towards maintaining him, while he acquired the rudiments of legal or medical instruction, and afterwards waited for

employment; but like many men of good understanding whom I have met with in a life now not a very short one, he fell into the mistake of supposing that commercial business is so simple and inartificial as to allow any man of common sense and common prudence, to embark in it with certain profit. He inquired for and soon found "a highly respectable man that wanted a partner with a few thousand, who might take an active part, or not, in the concern, as he might feel inclined." We all know in our profession, that such "opportunities" are to be found daily by the score; but my poor friend was not an attorney, and had no attorney at his elbow. He took the precaution, however, of employing an accountant to examine the "opportunity" books; and the accountant overhauled waste-book, and bill-book, and pass-book, and ledger, and all the double entry and other Sybilline leaves of trading mystery, till his brains were addled, if he ever had any. Of course he reported all right; and in an evil hour, Harris invested his little capital in "the concern." He was not long in discovering that his partner was a "very clever fellow," and that he himself knew nothing:

hence, with the natural modesty of a well-educated man, and with the natural confidence of an inexperienced one, he left all to the management of his "very clever" partner, and shrunk back into the station of a mere counting-house clerk: the transition to a sleeping, and eventually to an absentee partner, was a matter of course. From this slumber he was abruptly awakened about two years from its commencement, by finding that his "very clever" and very active partner had taken shipping one fine morning for America! No sooner was it known, than claims came pouring in from all directions: goods supplied on commission, goods consigned from abroad, all abruptly found owners; but neither the owners nor Harris could discover the goods: bills accepted and bills dishonored fell from the skies like leaves in October; but the consideration for them, or the funds to meet them, were alike evanescent. Harris found himself in a labyrinth of liability, a perfect wilderness of paper and arithmetic, from which extrication appeared hopeless—ruin certain and irretrievable. This was his position when he first applied to me. Amazed, bewildered, and lost, the very excite-

ment of extreme misfortune, and hourly perplexity, at first kept him active and alive. I called his creditors together, explained to them his situation, begged their indulgence for time to look about us, and subject to certain angry curses, and still more provoking costs incurred by carrion attorneys on the principle of first come first served, I succeeded in getting hostile proceedings suspended for a month. That month enabled me to sift many of the most clamorous demands, and as is usual in such cases, I found the most clamorous, the most equivocal. I silenced half-a-dozen by gentle intimations of partnership liability arising out of their dealings, others I disposed of on the ground of fraud, and I began to see my way clearly to a decent dividend, provided affairs were wound up under a trust deed. This was all satisfactory; but poor Harris, after the first storm had subsided, became nervous, agitated, and helpless, as he was ignorant, as a child. He was with me daily; but it was only to bemoan himself, and ask unmeaning questions, or tender unavailing service. Advice, consolation, encouragement, were all thrown away; "he cared little for his money — he despised his

creditors — he had no doubt of success in some other calling; but what would become of his character and fair fame?" and to that extent did he carry this morbid sensibility, that when at length I prevailed on all the *bona fide* creditors to come into the proposed arrangement, he defeated it entirely by peremptorily refusing to execute any deed that might empower the trustees to litigate the doubtful claims! There was a mystery about this pusillanimity that I could not penetrate, but it was soon explained; he had a very sufficient reason for deprecating publicity! *Bona fide* creditors, however, are not men to be trifled with; when Harris peremptorily refused to ratify the arrangement which I had promised on his behalf, a commission was soon sued out; the appearance of his name in the gazette brought to light, at the same time that it for ever terminated an engagement which he had made with the daughter of an eminent merchant — a worthless, though amiable woman (for, alas! I have not lived forty years in the world, without learning that amiability may consist with utter baseness), and Harris became bankrupt and broken-hearted the same day. Had he possessed more

firmness, I still could have brought him through: for a time he was quite docile, from mere despondency. As the truth became known, hostility gave place to commiseration, and his certificate would have been signed with alacrity; but a circumstance happened which threatened yet deeper disgrace. His villainous partner was the trustee of funds that he had appropriated; it became necessary, for the protection of the estate, to try the question at law, whether these funds had been applied to the use of the partnership; the bare suspicion of such a fraud was too much for my poor friend, and he died before the trial took place. The lady to whom he was betrothed, soon found a wealthier husband, and not long after her marriage, found also a more agreeable lover! but whether she too has buried her more merited sorrow in the grave, I know not. I saw her years afterwards, caressing with fondness a child that did not bear its mother's name; she looked at me with an expression of eager, yet retreating anxiety, and tears were in her eyes; but I dreaded retrospect not less than she could do, and we passed in silence. I have never seen or heard of her since.

Clients of this character require something more than professional aid. My poor friend's case was not one of the ordinary description, certainly; but this morbid sensibility is not of such rare occurrence as may be supposed, though it is very rarely that the accidents of life wound it thus deeply. It is not easy, perhaps, to estimate the true value of early and total disappointment in worldly prospects; yet on the other hand, it is certain that *very* early disappointment is by no means fatal to ultimate, and even brilliant success. That there *is* "a tide in the affairs of men" is true enough; but the hour of its ebb or flood is fortunately too capricious to allow of the maxim being of much practical use. When we are introduced to a client disposed to surrender himself to the hopeless feelings of Harris, we are bound to sympathize in them, even with fraternal tenderness; but not to share them. In proportion as he is cast down, we must maintain a cheerful, yet tranquil attitude.

Cases of the class which I have been describing are, perhaps, the only cases in which an attorney can scarcely go too far in taking a personal interest in his client's affairs; yet even

here, that interest must stop short of identity of feeling; a calm self-possession must be maintained, or he will fail in encouraging his client, for encouragement to hope is imparted more by example than by precept. To undervalue difficulties, to laugh at obstacles which can only be surmounted by patient ingenuity, is inexpedient and dangerous: when their real magnitude becomes apparent, the client will distrust your professional knowledge, and his despondency becomes deeper by the failure of his confidence. All should be clearly and honestly explained to him; but the explanation should be given with the manner of one who knows what he has to encounter, and is conscious that there is nothing in it so formidable, but perseverance and good sense may insure success. All this is obvious and commonplace, yet it is a most difficult doctrine to reduce to practice; for it is much opposed to that policy which guides the younger members of the profession. Some, I fear too many, think it wise to exaggerate difficulties, that they may secure proportionate credit for surmounting them: others from natural diffidence if not timidity, rate them too highly, to pave the way for ex-

pected defeat: there is yet a third class who apprehend their client's displeasure, if they appear to entertain less anxiety and alarm than himself, at the critical position in which he stands. All these motives are personal and selfish, when traced to their source; and selfishness so surely predominates, that the chances are always in favor of an inexperienced attorney acting upon them, in preference to more generous principles. I am convinced, however, that this selfish policy is short-sighted. I have known more than one instance of counsel acquiring an extent of business for which their learning little qualified them, by the consolatory spirit in which they always predicate success. I know many in which counsel of profound knowledge and high attainments have pursued a long career of yearly disappointment, because the nervous apprehension of being turned round on some point which few but themselves would have the acuteness to discover, dismisses the attorney from his conference with gloomy forebodings of the issue. If, notwithstanding he succeeds, he doubts the soundness of the advice, and at all events retains no pleasing recollection of his adviser. The same rule

holds in every respect, between the attorney and his client. A cheerful, I do not mean a sanguine expectation, rallies the spirits, and gives courage to the drooping litigant: it is impossible to give strength of mind to one who is utterly destitute of it, but a temporary firmness, sufficient for the occasion, may often be generated in a timid man who feels himself thrown upon superior resolution for support; and the most certain mode of strengthening his confidence, and removing his depression, is to exhibit the energy that he wants, while you do not deny the emergency that requires it.

It is scarcely foreign to this subject to observe that a great mistake obtains among the junior branches of the profession, and perhaps among many of all ages out of it, as to the qualities which are peculiarly desirable in a solicitor. It is rightly assumed that he must possess a certain share of legal knowledge; though even here, if I may judge by the prosperity of many, less will serve his turn than is commonly supposed: a liberal education *ultra* the law, is mostly, but very erroneously, regarded as mere accomplishment. I am ashamed to say of my brethren, that I know too many among them,

the style of whose composition would disgrace a chambermaid, and the tone of whose manners would exclude them from the butler's pantry. I know not one however, of this description, who has ever attained, or even aspired to a higher rank in it, than that which might be allowed to a sheriff's officer, or a money-lending Jew. Honesty, in the ordinary and limited sense of the term, is generally presumed as a qualification of course, though ill-natured people do say that it is rather an extraordinary professional trait. All however, are agreed, that to a greater or less extent, according to taste and the character of his business, law, general knowledge, and common honesty are required in an attorney: but discuss the desirable a little further, and we find the usual definition given of the desiderated animal is that he shall be "a sharp, clever fellow." In deference to this favorite notion, I have assumed my *nom de voyage;* yet with the inconsistency of many who travel the continent as captains and colonels (I know one gallant old gentleman at this moment, who designates himself abroad as "Monsieur le Colonel," in virtue of an old uniform to which he had acquired a title under

the volunteer system), I am bold enough to say not only that your "sharp, clever fellows" make your worst attorneys, but that they rarely gain admission to the higher classes of respectable clients: this sounds a little paradoxical, but there is sufficient reason for it. The sort of cleverness which obtains this reputation for an attorney, is to be found in every office on very cheap terms. Every common law or chancery clerk (as a piano that has been *practised* on for two or three years, arrives at its prime) is after a short probation, pre-eminent for it; and no office of any extent in business is without a convenient appendage of this kind, whose special duty it is to set snares and catch an opponent tripping: whenever he or his employer is at fault, the pleader or a junior counsel will soon make a skillful cast for the scent. This conflict of wit for petty advantage often occurs among the subordinates of an attorney's office; and where (though that is very seldom,) the client reaps any real benefit from it, the principal, by reflected honor from his clerk, is voted a "sharp and clever fellow." Among respectable men, however, these paltry contentions are despised, and also discouraged;

because they tend to create angry and vindictive feeling, without any counter-balancing advantage, except, perchance, two or three pounds that may be successfully extracted from the pocket of an opponent in the shape of costs, with as much credit, though more safety, than by picking it of a watch and seals. It generally happens that clerks who spend their noviciate in learning this cleverness, pique themselves so much on the acquisition of it, that they learn but little else; and when they enter upon practice on their own account, have no other accomplishment to bring to their aid. Hence their minds degenerate; their business is low, because it is chiefly in low business that such smartness enables them to shine; and even low and vulgar clients very soon discover, that while in the progress of a cause, these "sharp, clever fellows" are daily met and defeated by pleaders and counsel, if not by attorneys, as sharp and clever as themselves, their sharpness is frequently turned upon their employers, of whose dullness they can render very profitable account! The truth is, that it is only clients of very doubtful honesty, and who have business to transact which demands

the protection of those resources to which knavery alone will stoop, that require the aid of these "sharp, clever men;" but such clients are not worth having on any terms, and if you have too many of them, you will secure a reputation for cunning and address that will keep more respectable connexions at a respectful distance. If I were asked to define the professional character to which I should most willingly trust myself, in an affair of delicacy or importance, involved in intricate details of circumstance, and entangled, perhaps, with much of personal and private feeling, I should select a man distinguished by calm energy, a clear head, and sound common sense: if in addition to this, he were gifted with a cheerful disposition, and marked, not by fastidious delicacy of mind, but by that enlarged honesty which is usually intended by "honorable principle," I should consider that he possessed the finest qualities for a useful attorney. Of course there are not many who come up to this standard; but in proportion as they approach it, and as the general nature of their business implies that they keep it constantly in view, a client may consider himself safe in their hands.

If my work were not necessarily anonymous, and anonymous praise, however sincere, goes for nothing, I could with ease name a hundred solicitors that well deserve to be classed with such as I have here described.

CHAPTER XII.

"Cum pertinacia recte disputari non potest."—Cic. de Fin.
"Qua in re mihi ridicule es visus esse inconstans."—Pro. Qu. R.

But I have been tempted into a long digression from my immediate subject. I might distinguish and classify clients by as many peculiarities as there are passions in human nature: I wish, however, only to mention some of the more usual varieties. There is a very large and very profitable class that may be described as the "wrong-headed." Wrong-headedness may spring from temper, from timidity, from ignorance, and a multitude of causes. I have already given a few specimens of the class that will illustrate this, but the wrong-headedness to which I am now alluding, is an infirmity of itself, more nearly allied to pride, perhaps, than to any other kindred spirit, but distinguishable in many points even from that. It is an obstinacy of that peculiar character that

will resolutely act for itself, even while it admits its inability to judge, or to collect the materials for judging correctly. It acknowledges its own dullness; it seeks to be enlightened; it professes an eager anxiety to "see its way clearly;" it owns to perplexity; and acknowledges inexperience. The attorney is taken with this show of deferential confidence; he exposes the true position of the party, points out the material circumstances, explains the collateral bearings of the subjects, suggests the difficulties and advises on the prudential course; when to his surprise and mortification, he finds he has been talking to the winds.

"I admit all you say, Mr. Sharpe; there is a great deal of truth in it; perhaps you are right; only it does not seem to me that I must go on as I proposed."

"Then, Sir, you will assuredly subject yourself to costs, and probably to disappointment."

"It is very honest in you to say so, Mr. Sharpe, but I own I have formed my opinion long since."

"Your opinion was formed under a mistaken view of the case: you now see your position better."

"Yes, but I am not apt to be mistaken; I find others agree with me in my first impressions."

"Perhaps you did not so fully explain yourself and your situation to them."

"It may be so; but I do not well see how I can alter my purpose."

"You have not understood before how destitute you are of evidence."

"Yes: but I may find some better evidence yet."

"Then the legal point is doubtful, if you do."

"That's true: but I must trust to counsel for that. It strikes me that I must go on."

"Should you eventually fail, you widen the breach that it is your interest to heal."

"I am aware of that: still I don't see how I can help myself."

"I feel it my duty to say that I think your determination a rash one."

"I am very sorry for that, Sir; very sorry, indeed: but if you are unwilling to undertake the cause I must consult Mr. Darall. I have heard all you have said with attention; but I confess I am not convinced, so I cannot alter my mind."

And if you remain honestly firm to your

opinion, no matter how rational or how disinterested, you lose your client. Here is a choice of difficulties: take up the cause and fail, and the failure is not thrown on your client's obstinacy, not even by his own conscience, but on your ignorance and irresolution: should you succeed, the probability is that you lose his confidence hereafter, because your success gives the lie to your own predictions. Reputation is endangered either way, for I know to my cost, that a character for being too cautious is as fatal to professional repute, as the opposite extreme of temerity. These wrong-headed customers are the most profitable of any, when they do happen to be right; this however, is but seldom, for if they do not find a post in their way, they will soon make one to run their heads against. On the whole, I dread a "but" and a "yes, but" client. Pleas by confession and avoidance are most provoking.

The "whimsical" species is a very large family; and if not very perplexing, certainly very far from agreeable. I may observe of this class, as of the last, that their business is generally of a nature peculiar to themselves. The case of the wrong-headed is usually one of some

very equivocal right: the abatement of an alleged nuisance; the restraint of a customary trespass; resistance to a doubtful encroachment; enforcement of a vague contract; or above all, the assertion of some very questionable right of way, of toll, of common, and so forth. With clergymen invariably it arises on the titheable character of a twig of hazel or an alder bush. So with the client whimsical, his wrongs are always characteristic of the man: they savor of frivolity,—he has been deceived in the value of a painting or a horse,—or the mail has started before its time, and left him behind —or he has contracted for a green-house or a dog-kennel, and the builder has built it one way while he ordered it another; and then comes objection; objection ends in quarrel; and each party flies to his attorney, to bring the other to book; it by no means follows that the attorney is empowered to act, however. I had an amusing instance of this indecision in a man who was otherwise sensible, and who chanced, on this occasion, to be right on the merits. My friend had contracted for extensive alterations in his house; a specification had been prepared, but as usual, the original plan had been aband-

oned, revived, again abandoned, and eventually varied a dozen times. Of course a bill for extra work to no small amount, was sent in. He brought it to me.

"Here's a pretty rascal for you! he contracted to do the job for a hundred pounds, which I paid him, and here is sixty-three more! I shall not pay it. Can he make me, Sharpe?"

"That depends on circumstances; was the work included in the contract?"

"Some of it was; he was to open a door into the drawing-room, but I afterwards ordered folding-doors."

"Is that the only deviation?"

"No: the new windows were to be sash windows, and they were altered to French."

"Any thing more?"

"Why, I was obliged to change the position of the fire-place on account of the kitchen flues."

"Was this all?"

"Pretty nearly, only the recess was turned into a closet."

"Have you done now?"

"Let me see! No: I forgot the flooring. It was new laid to correspond with the other floor."

"And there the alterations ended?"

"The hinges of the new doors were changed for patent hinges."

"Then the rest was done according to the contract?"

"Not entirely; we did not like the white marble, so we substituted Douro."

"And the painting and papering?"

"It was to have been papered, certainly, but we found that painting was better for the pictures."

"That led to further change?"

"Why, you know we were obliged to have the oak graining to correspond with the drawing-room."

"And the cornices?"

"Oh, dear, I forgot the cornice; of course that was made of the same pattern as the other."

"Then with these deviations the specification was adhered to.

"Except in a few trifling matters, perhaps."

On showing him the contract and the plan, I easily satisfied him that the specification had been abandoned in every particular, but he "did not intend to pay nevertheless," and I must write and say so; the next day he repeated his call.

"Have you written, Sharpe?"

"No: I knew you would change your mind."

"I'm glad of it; I want you to write and propose a reference."

This was more rational, but I still hesitated till he called again.

"Will he refer it, Sharpe?"

"I have not asked him."

"Very right, for I think if you were to tender him ten or twenty pounds, I shall hear no more about it."

I thought so too; but I was by no means sure that my friend would be of the same mind for four-and-twenty hours, and then we should be worse off than ever. I judged correctly.

"I hope you have not offered the money, Sharpe?" were the first words on the following day.

"Not yet; I shall do so before night."

"By no means; I have made up my mind to resist the claim altogether, for the work's ill done; I am determined to resist it."

Before the week ended, came the attorney's letter enclosing the writ, and my client soon followed it to my office.

"This looks serious, Sharpe; have you retained Serjeant Wilde?"

"No doubt that is done already by the plaintiff, but I will send a retainer at once for the chance."

The plaintiff had secured him the previous day.

"Very unlucky indeed, Sharpe! very unfortunate! what can I do now?"

"Tender him twenty pounds."

"He won't take it: 'tis too late for that."

"Propose a reference."

"I think that would have done a week ago, but 'tis useless now."

"Write and say you will defend the action."

"Yes, and pay all the costs on both sides! juries always give verdicts for brother tradesmen."

"Then pay the money; or go to Brighton and make yourself scarce for a month, and leave the matter to me."

The latter alternative was the most agreeable. I offered a reference to any surveyor of eminence, and added that I should give the offer in evidence; it was accepted, the work was measured, sixty pounds taken off the sixty-three (this is

literally true), and five pounds more for the survey and costs settled the whole transaction. The whimsicality of my client was not the less mischievously absurd. Time is always lost, costs often incurred, and favorable opportunities of amicable compromise, or of testing the *in terrorem* power of professional decision, are foolishly allowed to slip by.

CHAPTER XIII.

"Multitudo superbe dominatur."—Liv.

The "client collective" is an untameable hydra! There are many varieties of this species: sometimes it is found in the form of parish vestries; sometimes of a bench of magistrates; sometimes of a professional or scientific council; at others of a coffee-house assemblage of rapacious creditors, or of an insurance or railroad board. In whatever form the monster appears, it requires Herculean powers to encounter it. It has fallen to my lot to meet it in every shape, yet I scarcely know how to prepare myself, much less others, for the conflict. To drop metaphor; we must recollect that when men assemble in considerable numbers to effect any common object, but not subjected to any rigorous discipline because they assemble spontaneously, and therefore on terms

of republican equality, each brings to the discussion not merely his peculiar knowledge, but his peculiar temper and absurdities: the most good-natured man is voted to the chair, and unless firmness and good sense mark his deportment, his good-nature is in his own way and the way of every body else: passion breaks loose; absurdity gains ground, (for every man is more or less absurd on some point), the chairman appeals to the good sense of the board, long after every symptom of it has vanished, and then the *dernier ressort* is to the authority of the legal adviser. But this officer usually stands in a very unlucky predicament. He has an acknowledged interest in the question of costs, on every important matter that provokes debate. Collective bodies are destitute of delicacy or shame; where reproach is distributed among many, each man's share becomes imperceptibly light; hence the most cutting sarcasm and illiberal sneers are unsparingly vented on professional rapacity, by men who would blush individually to be suspected of a shabby economy. In their official chairs however, they "are trustees for the public;" and under this convenient salvo, they uphold penurious parsimony as a

laudable duty that they are bound to practice. Now to all this, the attorney must submit with patience,—nay, with cheerfulness; for if he appears to wince under the lash, punishment is redoubled; should he be provoked into a retort, he challenges a trial of official strength; for there is nothing that assembled officials like to display so much as their power. Yet their attorney must answer every appeal with calm good-humor, as well as deferential gravity.

A favorable opportunity occurred to me in the third year of my professional life, to start a public company for a very legitimate purpose. Joint-stock speculations were not at that time so much distrusted as they are now; foreign mining was the rage, and fortunate was the man who could state on decent authority that Chili or Peru had still a barren mountain unprovided with a wealthy owner. No sooner was it announced by me that the rich soil of Bubbillassi was in the market than shareholders, directors, and trustees came in by shoals. I knew neither its latitude nor longitude. I was equally ignorant of its products, its capabilities, and its value. An enterprising friend had spent three months on the South American continent dab-

bling a little in geology, mineralogy, and "all the other ologies;" he returned home at the nick of time, prated fluently about gold and silver lodes, veins unexplored, and hidden treasures, all of which needed but a few thousand pounds, and a clever agent like himself, to secure them to the first bidder in the market of British capitalists. I own that at this age I was scandalously green as to the advantages to be derived from such lucrative projects; I little dreamt of the mystery of issuing shares most grudgingly, swearing that they were all bespoke, long ere one had been subscribed for, bribing an active stock-broker with the disposal of a few hundreds of them, and then pocketing the premium before a first installment had been paid. Had I comprehended all this thimble-riggery then, I should have been far above the necessity now of "soft-soldering" clients! but let human nature be as bad as it may, I do maintain that such knowledge is not to be acquired by intuition, even by a man born in the Rotunda, and cradled in the Stock Exchange! no, not though he should be blest with a Jew-attorney for a dry-nurse. My prospectus of the Bubbillassi Mining Company was soon published, (I was always

a good hand at drawing a prospectus,) and bankers, merchants, stock-brokers, ship-owners, and East India captains were at me by the dozen. Even metropolitan M. P.'s and worshipful Aldermen thought it no sin to assure me that "they liked the scheme; it was a magnificent idea, they had much time on their hands and would be happy to take a few shares, and even to give weight to the direction by taking a part in it, if all the seats were not yet filled up." I might have suspected that all this meant something, but like a confiding greenhorn as I was, I innocently interpreted these kind assurances *au pied de lettre*, and bestowed my patronage in the order of the applications made to me. Thus I soon found myself surrounded by a motley crew, all of my own appointment, and as I of course inferred, all most gratefully disposed to admit a reciprocity of obligation. For a time things went on swimmingly: not a soul among us knew anything about the mines, or smelting, or Chili, or Peru, or aught connected therewith! Less still did they understand the science of organizing associated bodies; all was left to my ingenuity, and aided by the local information of my ingenious coadjutor, I contrived

to satisfy all doubts, overcome all obstacles, and launch the speculation so plausibly and dexterously, that shares rose in the market to a premium that enriched every body but myself, and those who paid it! Of our eventful success I shall say no more; there are thousands and tens of thousands who will be at no loss to identify their Company by this short sketch of its commencement, and if a lurking doubt should still remain, the following scene at a weekly board will remove it. There are sundry articles of furniture, of "property," I believe I should say in theatrical phrase, that are essential to Company dramas. Twelve mahogany chairs of massive dignity, duly covered with green morocco, and commanded by one of loftier pretensions in capacity and elevation of back; a very neat ivory turned hammer somewhat larger than an auctioneer's, to assist in resolving into its simple ideas the compound eloquence of twelve gentlemen of "considerable influence, well known in the city;" six daily newspapers to amuse the thoughts of those who "take no interest in the immediate subject of discussion;" a dozen memorandum books interleaved with blotting-paper to employ the finger during the

tedious process of reading over minutes, and formal correspondence; and above all, a lengthy table, at which twenty aldermen might dine without crowding, which said table *must* be covered with superfine green cloth: all these several properties are actually indispensable to the due performance of directorial parts, though on the whole, I am inclined to think the green table the most important of them all.

The first occasion on which my professional assistance was formally requested, arose on a matter that seemed to me ludicrously insignificant; but I had not then learnt that the zeal of a "collective client" increases in a direct ratio with the insignificance of the subject, and rightly so; for what dependence can be placed on the wisdom and frugality of "a public board," if even in trifles involving however slightly the "interests of the share-holders," they lose sight of economy, or foolishly confide the management specially entrusted to themselves, to the skill of subordinate officials? The deed of settlement was a document of awful length, extending over some thirty skins of parchment of more than ordinary dimensions; I had succeeded in procuring the signatures of

all the proprietors, and as in duty bound, reported progress, and laid the mighty roll on the table. "What next?" was the perplexing inquiry that led to the following scene.

"Gentlemen," began the chairman with most becoming gravity, after a short prelude with the ivory hammer, "Gentlemen," and the hammer was again called into action: "I must entreat silence, gentlemen, for one minute, while" —

"Mr. Chairman," exclaimed a pert youth of about five-and-twenty, who gloried in the name of Gribble, "I wish to know, Mr. Chairman, why that enormous mass of parchment, which of course cost money, might not have been saved? paper would have done as well!"

"I was going to explain, Mr. Gribble," promptly answered the chairman; but ere he could finish the sentence, a new orator broke forth in a Mr. Lounch, a steady, substantial, and straight-forward tradesman of the old school.

"Saving's a very good thing, Mr. Chairman, but order is still better; and I call Mr. Gribble to order, seeing that you, Sir, were in possession of the chair!"

"I don't well see how he could be out of it,"

retorted Mr. Gribble, "but I contend I am not out of order, for if such confounded waste as that"—

"Order, order," shouted three or four at once, "there is no motion before the board!"

"If a speedy motion is desirable to prevent disorder," interposed Dr. Flabotham, "I will move that in all future operations of our body, waste paper be substituted for parchment."

"Chair! chair! no professional allusions, Doctor!"

"Dr. Flabotham, it is my duty to say"—

"I scorn all professional allusions," interrupted the Doctor, "I merely wish to purge this board of the disorder that is always predicated by the want of motion."

"Motion or no motion, I am in possession of the chair;" again began Mr. Gribble.

"I think you have no occasion for it, and should be kicked out of it," interposed the plain-speaking Mr. Lounch.

The activity of the hammer here became terrific; the entreaties of the chairman assumed a tone almost of rebuke; not an ear heard him, however, for not a tongue was silent, and remonstrance was in vain.

"Kicked, did you say, Sir? did you say kicked?"

"And a motion before the chair!"

"But not seconded."

"The chairman was going to explain when Gribble interrupted."

"I move that the words be taken down."

"I second that motion."

"Impossible; it is contrary to all rule: you must move an amendment."

"I appeal to the chairman."

"Gentlemen, gentlemen, it is impossible to keep order, unless"—

"I again ask, did you say kicked, Sir?"

"Address yourself to the chair, Mr. Gribble, these personal applications"—

"He did *not* kick me, Sir! What do you mean to insinuate by *personal* applications?"

"I vote that this meeting do adjourn!"

"What, without doing business?"

"It is you have interrupted it, Lounch!"

"I did not; Gribble said he had taken the chair, when I am sure he did not want it."

And so the tumultuous chorus was sustained, till exhaustion silenced the majority; when the chairman availed himself of a momentary pause

to ask the question, how it all began? This was a signal for re-commencing the row.

"It was Mr. Gribble who"—

"Dr. Flabotham moved that"—

"Lounch wanted to kick"—

"'Tis one o'clock, gentlemen, and I must be off to the Phœnix," exclaimed Lounch, in a resolute but quiet tone, that induced several to follow his example, and take their hats; peace was now restored; a *quasi* apology exchanged between the most obstreperous, who resumed their seats, and to seal the general reconciliation, the chairman gravely proposed that Mr. Sharpe's opinion should be requested on the point in dispute. To this an immediate assent was given, and I was summoned from the adjoining room, to which I had retreated when matters were becoming serious.

"Mr. Sharpe," the chairman blandly began, "the Board wish for your opinion on the subject that has excited so much unpleasant discussion: will you have the goodness to favor us with it?"

"May I ask what the question is, Sir?"

"Perhaps you will explain it, Mr. Gribble," said the chairman, prudently evading the very difficult task.

"The question is, Mr. Sharpe, what's the use of all that heap of parchment yonder, except to swell your bill of costs? can you tell me that, Sir?"

"I beg pardon," interposed Lounch, "that was not the question at all."

"Then perhaps you will explain what was, as you understand it so well," rejoined Gribble.

"The question was about the Doctor's motion."

"'Twas no such thing; 'twas a point of order," observed the Doctor.

"There you're quite out; for the chair decided it against you."

"I decided nothing, gentlemen, but as Mr. Sharpe cannot answer the question till he hears it, I beg to propose that it shall be written down."

"A good thought that," observed a humorous man, about fifty, who had been the only peaceable one in the party; "I move that every man shall write his question down."

The hint was promptly taken; everybody seized a pen, and in five minutes I was favored with as many questions as there were directors, that is to say, exactly fifteen; and the best of it was that no two were at all alike. I read them

all with becoming gravity, but to answer half or even a tenth of them was impossible. I extricated myself from the difficulty without much trouble.

"Gentlemen, I can easily remove all your doubts, but it will be at considerable expense."

"Costs again! Sharpe never thinks of anything but costs!" observed Gribble.

"Yes, Sir, the costs will be very heavy indeed, and that is my reason for hesitating."

"Why, can't you open your mouth but we must pay for it?"

"Precisely so, Sir! you have asked me fifteen questions, and at six-and-eightpence each the answers will be exactly five pounds!"

My quiet friend, who had been looking over some of the papers simultaneously with myself, observed that they would not get off so cheaply, for at least two-thirds of them required the opinion of counsel! It was finally determined that I should select for myself such as most obviously required an answer, when, like a fool, I replied, "there was but one;" and thereby deeply offended the self-complacency of fourteen-fifteenths of my collective client! "Which is it?" was eagerly asked on every side, each

man expecting the honor of being deemed the most intelligible, if not the most sagacious.

"It is Mr. Lounch's—'What is to be done with the deed?'"

I had no time allowed me however, to answer it, or probably they thought six-and-eightpence too high a price, for the hubbub immediately recommenced.

"I move that it be taken to the bankers."

"I move an amendment, that it be deposited in our own safe."

"I propose that it shall be left in the solicitor's charge."

"The trustees should have the custody of it!"

"It more properly belongs to the chair!"

"Let it be sold to the tailor for measures," moved Gribble, "we shall at least save something by that."

And motion followed motion, and amendment supplanted amendment, till the quiet man of fifty at length put an end to the disturbance by suggesting an inquiry of the deed itself, which of course provided properly for all such treasures. The board, glad to be relieved, then determined its sitting; but its absurdities were co-existent with its term of collective life.

Let not my readers suppose that this is a mere sketch of fancy, got up in the same spirit of exaggerated representation in which we find all the scenes of bubble companies delineated by the humorists of the day; I have varied names a little to avoid being charged with libel, but I have studiously refrained from overcharging the facts, or it would have been easy to have added much ridicule to this description; I doubt not but many will be able to draw a parallel from their own experience: were I not afraid of identifying the actors, I could multiply tenfold such scenes from real life. I will venture to give one more, because coupled with the last, it conveys a useful hint to the young attorney as to his behavior in such dignified presence.

The eligibility of a further investment in the purchase of a contiguous property had been the subject of discussion; the case scarcely admitted of a doubt, if the speculation was to proceed at all, but where a dozen individuals are to decide on any question, though as clear as the sun at noon-day, there will assuredly be a dozen doubts suggested, and a dozen speeches of irresistible force and point, not one of which has any obvi-

ous bearing on the subject. A great deal of this kind of oratory had been already expended, when I was called in to advise my hydra-headed client. The usual ivory-hammer preliminaries being settled, I was addressed by the chairman with unwonted solemnity, the spirit of contradiction and interruption having been laid by exorcisms of unusual power.

"Take a chair, Mr. Sharpe: draw nearer if you please, Sir; I am rather hoarse to-day."

"A little this way, if you please, Sir," begged a venerable gentleman, who always pleaded deafness for density of understanding; "I am anxious to hear you."

"Do come forward, Sir;" tartly interposed Mr. Gribble, "I have several questions to put to you;" and at length, having adjusted my place and my chair to the seeming satisfaction of all parties, the chairman proceeded.

"The board has been occupied for an hour, Mr. Sharpe,"—

"An hour and three-quarters by my watch," interrupted Mr. Lounch.

"Well, Lounch, it don't matter; the board has been engaged for a long time, Sir,"—

"Too long by half," exclaimed Gribble, who

I found had been the chief talker for the whole sitting.

"Mr. Gribble, I must entreat silence; the board, Mr. Sharpe, has been considering whether it should avail itself of an unexpected opportunity"—

"A new symptom," observed Dr. Flabotham.

"Really, Doctor, I must appeal to the board, if I am thus interrupted—really"—"Chair, chair," resounded from every quarter. "I am paralyzed," said the Doctor, and the chairman resumed with graceful perturbation:

"I am extremely sorry, gentlemen, to complain of any disregard to my authority, as chairman, but the delicate and very important duty I have to discharge, while I have the distinguished honor of filling this chair"—here his voice was drowned in loud and reiterated cries of hear! hear! that overpowered his modesty while they appeased his transient displeasure, and at length in a tone of elevated dignity, he pursued his address to me.

"You will have gathered from what I have already said, Mr. Sharpe, that this is a question of very complicated and difficult character, and

the board is desirous, indeed I may say anxious, to hear your sentiments upon it.

Here he paused and looked steadily at me. I returned the look in expecting silence; his compeers, one and all, assumed an attitude of fixed attention; and for the first time that I had ever assisted in their consultation, a pin might have been heard to drop.

"Well, Mr. Sharpe, what is your opinion?"

"What do you say to it, Mr. Sharpe? what will the costs be?" added Gribble; while five or six more chimed in with similar interrogations. It was a painful position; for neither case nor question had yet been stated, nor the most distant hint given except by Gribble's inquiry about the costs, as to the matter of their two hours' debate: it was clear however, that every man at the table considered that I had been furnished with ample materials to form my expected judgment. I had no alternative but to confess my dullness.

"Not having heard your previous discussion, I do not quite catch the point, Mr. Chairman."

"That is very extraordinary, Sir; I thought I had expressed myself clearly; but I will repeat my explanation. We have been offered the

property of ———, which you are aware, abuts on our principal mine, at a price which all things considered, is above the mark certainly—"

"By £2,800," observed Mr. Lounch.

"There you are quite out," said Gribble, "by at least £10,000, if you leave out the costs; and they will probably be £10,000 more."

"I avail myself of this opportunity *for* to give notice that next board-day I shall move that all costs sent in by Mr. Sharpe, be taxed in the usual manner," said a Mr. Sniggle, a vinegar-faced, elderly gentleman, who had acquired a large fortune during the war, by certain practices in a foreign port, that combined much of the character of smuggling and treasonable aid to an enemy in open hostilities.

"I have long entertained the same purpose myself, Sniggle; and I am prepared with some very laborious calculations to prove that Mr. Sharpe's bills have hitherto been a charge of one shilling and three half-pence per cent., on every investment, besides coals and candles for his office, which I move be no longer allowed!"

"Did you take in the cart-load of sheepskin, Pinchpenny?"

"Gentlemen, we are digressing from the

point: I must call you to order. I believe, Mr. Sharpe, you now comprehend very clearly the difficulty we feel, and we shall be obliged to you to state your sentiments."

But this same digression about costs had by no means tended to clarify my bewildered thoughts, though the acrimonious and even spiteful tone of it, served to show the character of their recent controversy.

"I am somewhat doubtful, Sir,—" but I was not permitted to finish the sentence, half a dozen *pitching into me* at once, with vindictive pleasure.

"*You* doubtful, Mr. Sharpe! why you voted us all fools the other day, because you could not understand our questions!"

"Ay: there was only one, you thought, that required an answer."

"Some people are so wise that they never see anybody's meaning but their own."

"If it were a long bill, Sharpe, you'd understand it fast enough."

And many such kind speeches uttered with every variety of intonation, but each partaking largely of the bark malicious, not only gave me time to think, but unluckily to grow

warm. Alas! it is very difficult for youth to submit to unmerited reproach, and that too from illiberal and ignorant lips; but I have often been taught the lesson since.

"I see your difficulty, gentlemen. You want to buy the property, but not to pay the costs! I am the last man to consult on such a point, so I beg leave to withdraw."

I did withdraw: for I had good reason to complain. I had never yet delivered them a *full* bill, as we technically call it; yet moderate as my charges were, they were never paid without grudging scrutiny and penurious hesitation. It seemed apparent to me that this very interview had been sought to make a dead set at me about costs, from vindictive resentment at my ill-timed pleasantry in the preceding week, and I could scarcely conceal the disgust and indignation that I felt. I was visited next day with a vote of censure, and a menace of dismission, but it was *vox et prætera nihil;* for in less than a month the company was dissolved, when every man among them came to me, privately, to complain of the grasping and selfish spirit of his coadjutors, and to consult me how he might most securely

protect himself from contribution to the general loss? I spontaneously relinquished my claim for all the costs of the society's formation, and pocketed but seventy pounds by all its operations; yet the failure sprung from no fault of mine, nor yet of the projector, nor even from any inherent defect in the project itself; but from the stock-jobbing character of my worthy directors, who thereby forfeited the confidence of the shareholders, and of course could not raise the funds necessary to complete their contracts.

It is of very little consequence what may be the outward and visible form of your "collective client." A parish vestry, or a corporation court, or any other body of associated wisdom, is equally tyrannical, illiberal, and absurd in all its official proceedings, except in those cases where such assemblies are compelled to act under the check of publicity, and exposed by the press to the constant observation of their constituents. Quickness, both of eye and ear, good-temper, calm self-possession, and caution bordering on reserve, are the only qualities by which their legal adviser can hope to gain their confidence, or apply his influence successfully

to manage them. He will not be the less a fool however, if he attempt to propitiate such clients by any spontaneous deduction from his legitimate charges. Such deductions are considered, not as liberal and gratuitous concessions, but as admissions of the justice of complaint, and of course as apologies for future and more rigorous taxation. I have already dwelt on the general subject of costs; I content myself with adding that the remark which I have before made is peculiarly applicable to "collective clients;" that there is no intermediate course between charging every penny to which you are reasonably entitled, or charging nothing: no credit whatever is obtained by a compromise.

A principle of equal importance in every collision with clients of this class is to avoid all struggle on the question of power. It requires much self-command to practice this forbearance, I admit, for the frivolous rules continually introduced, and vexatiously enforced by small-minded masters, often try the temper most seriously. One man wants business to be done in this way, and another in that; Mr. Brown suggests a daily report of progress,

and Mr. Smith never wants a report at all; nay, in matters too trivial for even a passing suggestion, the same meddling interference is eternally exhibited. I have known two hours spent in solemn discussion whether official letters should be written on note paper or foolscap. I have heard a debate adjourned from week to week for a month together, on the mighty question, whether the secretary should sit on the chairman's right hand or his left! at the same board or at a separate table!!! and times out of number have I been required to prepare schedules, vouch for copies, or check calculations wholly foreign to my duties, and for which costs have been refused; and yet so far from thinking they asked a favor in thus murdering my professional time, the instructions have been issued in the high mandatory tone of "an order of the board!!!" but petty annoyances like these must be borne with calm philosophy. Cases may arise where this official tyranny is carried to the extent of insult, alike destructive of personal comfort and professional respectability; and in such cases, when personal responsibility attaches to no individual, firm remonstrance becomes a duty. Here, however,

the attorney must be particularly on his guard; the only court of appeal is the body of shareholders, with whom the directors must be presumed to have paramount influence; to avoid the hazard of an open conflict with the shareholders, or to guard against the mischief of it, if it proves inevitable, it will be prudent to reduce remonstrance to writing, and to embody in it every substantial ground of complaint: this, if done pointedly, yet temperately, will prove an indictment on which, even in the pride of power, few directors will like to be arraigned; but like all well-drawn indictments, it must be clear, certain, and precise; for no public assembly will listen to or understand voluminous statements; a man is ruined who seeks justice from a jury, whether of twelve or twelve hundred, through a mass of complicated detail. But precautions like these, though by possibility they may be required, and therefore it is my duty to mention them, can only be necessary in extreme cases. With "collective clients," as with individuals, long experience of a man's value will secure his just influence, and though associated bodies are rarely manageable, and too often irrational in their

proceedings, I have long been connected with many not less liberal and indulgent, than they are turbulent and troublesome. The "*hanc veniam petimusque damusque vicissim*," is a principle that long acquaintance, where it generates mutual esteem, as it always will do among honorable men, will assuredly introduce into the daily transactions of business, till pardon becomes unnecessary, because provocation is never given.

As there are sundry little artifices in every trade, by which its manipular operations are facilitated, so there are some rules that we may almost term mechanical, by which we may conveniently govern our intercourse with "collective clients." It is very easy to lay down general moral principles of self-command, patience, good-humor, and so forth, and the scenes that I have been describing explain, to a certain extent, how to reduce these principles to practice; but I may usefully mention a few maxims that do not so readily present themselves to beginners. Young lawyers always labor under a false impression, as to the degree of weight attached to their opinion, even on such legal points as they are

expressly invited to explain: they consequently assume a high position at the very commencement of the conference; "lay down the law," as it is called, in a dogmatical manner; give the go-by to any question of which they do not immediately perceive the drift; and answer others precipitately and decidedly, under the impression that any hesitation will be ascribed to ignorance, while any error they may commit will pass unheeded by men avowedly ignorant of law. A certain measure of self-confidence is unquestionably necessary to give confidence to others; but if this axiom is carried too far, it is highly impolitic in a large and mixed circle, where some one or other is almost certain to be found who can justly discriminate between the self-confidence of knowledge, and the assurance of mock experience. The man gifted with this discrimination is usually the man of most influence, though silently exerted; and if he imbibes an unfavorable opinion of the solicitor, that opinion will of course work to his serious prejudice in the long run. Hence my first counsel to the beginner is to allow full scope to all the eagerness of debate and appeal, before he interposes a word of advice; to listen

cautiously and closely to every question and every remark, relevant or irrelevant, proceed from whom it may; and especially to be on the watch to discover on which side the most quiet and most *acknowledged* members of the board have ranged themselves. Akin to this suggestion, is another not less applicable to single clients, than it is to an assembled body of them,—to evade all reply till every essential point has been clearly explained, and every written document to which allusion may have been made, is fairly before him. I have often been reduced to the unpleasant necessity of retracting, or at least qualifying and softening down an expressed opinion, because I have afterwards found that not one half of the important facts had been communicated to me. Clients rarely appreciate as they deserve, minor and collateral circumstances; though it often happens that on these it altogether depends, whether their case can be distinguished from one already decided, or be made an exception to an established principle of law. With two cautions of yet higher practical importance, I will take my leave of the subject of "collective clients." Never allow yourself to be hurried

into an answer to any serious question, till it is reduced to writing; and be equally careful to observe the same ceremony with your opinion. *Quod scriptum remanet*, is a motto that should be inscribed over every office-door. It is as protective to the honest man, as it is inconvenient to the knave.

It will occur at times, especially after any warm and protracted discussion, that having given your opinion on the point at issue, one or two of the party will straggle afterwards into your office, ostensibly to *talk over* the subject, but in reality to give vent to irritation against one or more of their noisy colleagues. This opportunity of earwigging the board is tempting, when in its confusion you have been unable to obtain proper attention, or have suffered from its collective injustice; but it must be avoided It is inconceivable to what extent the several members of such republican governments are jealous of each other. A private interview, or an *ex parte* discussion with the solicitor, is invariably regarded as the signal for general disturbance. In the row that follows, the officer is sacrificed as a peace-offering to restore the harmony of the board, and all

the misunderstanding is emphatically ascribed to his underhand manœuvres. It cannot be too strongly laid down that perfect openness, and straight-forward dealing, essential as they are to the peace as well as the respectability of all men, are indispensable to the very existence, in an official sense, of the attorney of "collective clients."

CHAPTER XIV.

"Masters, it is proved already that you are little better than false knaves: it will go near to be thought so shortly."

MUCH ADO ABOUT NOTHING.

By the time I had acquired the experimental knowledge which I have here endeavored to impart, I found myself pretty well versed in the art of clientizing; but clients are by no means the only people an attorney has to deal with! in truth, our only object with them is to keep them; but there are other folks of whom we are only anxious to get quit, as soon as business will allow us; these are our professional brethren! I need scarcely observe that I write only for such young men as are entering on their legal career with the honest and commendable intention of acquiring a station in the respectable class of the profession; a station that can only be acquired by respectable business, carried on in a respectable manner.

There is no term, however, in use in our profession, so general and yet so equivocal as this same word "respectable." By a sort of conventional rule, the appellation is liberally bestowed on every attorney, of whatever class and however moderate his pretensions, so long as he has, whether by ingenuity or good luck, contrived to escape a hostile motion to strike him off the roll. My construction of the word is somewhat more rigorous; I will explain myself by negatives—by describing that class of business, and those men who, in my estimation, are decidedly *not* respectable. I am happy to say that in this portion of my task I speak from report, not from personal knowledge, but I will only mention such matters as I firmly believe have been given to me on good authority.

Before I describe the *non*-respectable of our body, it may be expedient to advert very briefly to our relative position in society, as a professional class; for without a little explanation on that head, it is very difficult to conceive how such a medley of extremes should be found in a common pursuit, where a common system of education is adopted, from an age generally so

early that the taste and habits of the pupil can not be supposed to have been previously formed. It must be confessed that till within the last forty or fifty years, an attorney's title to be ranked even among the middle classes of society, was very equivocal. Mr. Latitat was the rogue of every farce—the knave of every novel: his occupation made him adroit and intelligent, but it also made him suspected; it frequently brought him into personal contact with the dishonest and degraded, and he acquired, often undeservedly, a taint of reputation from the very circumstance that enabled him to understand, and by understanding to defeat, the arts and stratagems of villainy. Legal business itself was at this period of a very inferior stamp: now and then cases might arise on family settlements—on real titles—on complicated relations of debtor and creditor—or doubtful customs in trade or commerce; but these were comparatively rare, and by no means constituted the bulk of legal practice; that was to be found in petty personal disputes or delinquencies—in small controversy between small people. Law too, like everything else, was comparatively cheap, and even the bar,

though always to a certain extent the resource of pauper-aristocracy, was scarcely regarded in any other light than a refuge for the destitute, suited to the youngest sons of younger brothers, who had no turn for the army, and no character for the church. In our days, though this inferior business still remains, and is even extended as population has extended, and the lower classes have acquired greater property, yet it by no means forms the principal inducement to enter the profession. So intimately has commerce become interwoven with law, in all its branches, that there is scarcely any important transaction in which the merchant can engage, that does not more or less require the counsel of his solicitor, till long familiarity with the subject has made him half a lawyer himself. The law of insurance, the law of principal and factor, of lien, of partnership, of bankruptcy, of bills of exchange, and many other heads that might be mentioned, enter into the daily affairs of the counting-house. So many, too, of our patrician families have of late years found it convenient to place their sons in mercantile, or banking houses, and consequently to raise

capital by the mortgage or sale of their patrimonial estates, that questions of pure conveyancing often become entangled with commercial law; and the nobleman, not less than the merchant, is thrown more frequently and more entirely into the hands of his attorney. The immense increase of public companies and parliamentary business, and even the growing importance and independence of our colonies, have largely contributed to swell the stream of professional profit, and at the same time to purify its source, by giving a legitimate and acknowledged value to the solicitor's services. This gradual elevation of our duties has naturally led to the introduction among us of many young men from that rank of life, who, less than half a century ago, would have spurned the calling as derogatory to their birth; and attorneys in the higher walks of the profession, have in many instances, established for themselves an acknowledged title to rank with the first circles; though I do not say the most fashionable, for I by no means class these among the most worthy, or the most important; but though by this accession of better born, and therefore generally better educated

men, we have improved our social position, and can now enumerate hundreds among us, who are not less gentlemen by birth, by feeling, and by manners, than we are by act of parliament, there still remains too much of that low business which was once the staple of our trade, not to attract many low people into the profession; the rather because if once admitted there, the best prizes are as open to them as to others, if by happy accident they can insinuate themselves into the first or second class of competition: indeed to be an attorney is itself a great step in life, a sort of gentility of station, in the estimate of the lower ranks of shopkeepers and mechanics; nor does it require any great outlay of money to give a son a title to the name, provided no lavish expenditure has been made in his previous education. Let it not be supposed that I feel contempt for this laudable and even humble ambition; far from it, for I profess principles too liberal, as well in politics as I trust in Christian faith, to deride it; but I still think myself at liberty to protest against the absurdity, as well as the silly pretension of placing a boy of sixteen in an attorney's office, without any preparatory edu-

cation beyond the Latin grammar, and too often less than that, simply to qualify him to be a gentleman, whilst his brothers are tinkers and tailors, and his father a Bow-street runner or sheriff's officer.

I have digressed a little, however, from my subject. I only wish to explain how it happens, that in a profession which is now justly esteemed a liberal one, and in which we daily meet with men well qualified to adorn any rank of life, we should yet more frequently fall in with others whose manners would exclude them from our servants' hall, and whose characters would compel us to count our spoons, if by any accident they gained admission there. It is but too true that we have among us a large body of adventurers, who have little education, less principle, and neither capital nor connexion. It is probable that in some instances their friends have selected them for attorneys, because they have early exhibited a predilection for that speculative inquiry into the rights of property, which, by a more summary process, leads those who have no relatives to the gallows

There are various ways by which these ad-

venturers contrive to work out a livelihood in a "respectable" manner. The secret of their art is to establish a familiar acquaintance with any humble class where the ceremony of special introduction is of small account, and in the words of the play, to "push it as far as it will go." There are many classes of this description daily to be found in our crowded metropolis; and all of them, either from their helpless ignorance, or dishonest pursuits, stand in daily need of "a professional adviser." Among the helpless, may be enumerated the thoughtless sailor just returned from sea—the inferior tradesman trembling on the verge of bankruptcy—the pigeon who, after plucking, hesitates between reform and desperation—the ruined spendthrift, but expectant heir—and yet more frequently the beggared gentleman that prefers enjoying his last hundred within the prison-walls, to dividing it among fifty creditors at the rate of sixpence in the pound. The dishonest class is, perhaps, less accessible, but far more profitable: it consists of cent per cent money-lenders and annuity-mongers; of brokers who will discount a six months' bill on the security of a watch or a well-secured post-

obit; hell-proprietors and blacklegs of Regent street and St. James's; swindlers of the turf; smugglers by profession; "fences" of the lanes and alleys of the town, including of course nine-tenths of the pawn-brokers and dealers in marine stores; and finally, all the thieves and pickpockets in the bills of mortality.

It may excite a little wonder among the uninitiated, how any attorney, however poor or adventurous, can find it worth while to seek for clients in the first of these wretched classes; and it is true enough that if on first acquaintance, he finds them in utter destitution, that acquaintance will be but a short one; but even among the poorest, there are often decent pickings to be found. A glass of grog with an open-hearted seaman in a public-house at Wapping will extract the whole history of his hardships, his hopes, and his disappointments for the last ten years of his life; his tales of sad mishaps will win the heart of his legal auditor, as surely as Desdemona's; sympathy begets confidence; and in less than an hour, the sympathizing friend receives instructions for a dozen actions against captain, mate, and owners, for sundry assaults, and false imprison-

ments, and a long arrear of unpaid wages: witnesses are found on board as surely as if they were entered in the ship's manifest; and as one good turn deserves another, the plaintiff and the witnesses frequently change places, and endless litigation is extracted from a single glass of rum and water. If the affair is compromised by ten or twenty pounds, paid by the defendant to get out of the scrape in the shortest and cheapest way, the attorney and his client go shares (the first taking the lion's part), and the poor sailor recommends his kind and disinterested friend to half the merchant service. A dozen of such adventures—and his fortune is made! So in the other cases, the tottering shop-keeper will accept bills for a thousand, to get the temporary aid of fifty pounds, and pledge all his last year's stock as security, at a tenth of the cost-price: a fiat of bankruptcy speedily follows; and his friend in need is the first to help him out of the difficulty, and insure his certificate by proving for the thousand pounds: the plucked pigeon will stake his soul for one more chance at the tables, and the legal adventurer would sell it to the devil for six-pence beyond the sum advanced: the

ruined spendthrift is equally ready to charge his reversion at five hundred per cent. provided the cash is *immediately* forthcoming, and gratefully recommends his "friends" to every expectant heir in her Majesty's household troops: the beggared gentleman, after two weeks' confinement, speculates on being discharged, and having perchance, forty pounds still left, gives thirty of it to "his lawyer" to "carry him through" the court.

But the dishonest trade is a better thing by far. It requires some dexterity to gain a *locus standi* in it: a man must not be too nice, and the less he says about character the better; a little hard, but clever swearing now and then, will stand him in good stead; for nothing tells more with clients of this class, than a dexterity in drawing safe affidavits. Let an attorney once "get his name up" for this, and he has bought a free admission for life into the whole fraternity; and then there are indeed glorious opportunities, the least of them not to be despised!—suits in equity to set aside annuity transactions; colorable bills of sale, to defeat the executions of just creditors; assigneeships of bankrupt estates: gaming-house prosecutions;

and, "sweeter far," their compromise; exchequer informations and *qui tam* actions,—language fails to enumerate a tenth part of the prolific sources of practice to the happy man who once secures the affections of the charming set. The business of the Old Bailey is a step lower, but even here, much "good can be done:" it is no bad thing to have the run of Newgate, and be cock of the walk at Clerkenwell Sessions-house. Independently of the sweets of the police-office, and the profitable eclat of daily figuring in the newspaper reports, as "attending to watch" a score of cases in every part of the metropolis, it is notorious that when a thief is once captured in a "lagging" matter, he begins to set his affairs in order; and many of these fellows are "well off in the world," having abundant occasion for professional assistance in the operation. The special advantage of all business of this description is the certainty of payment; from the nature of the case, there can be no trust, and consequently there are no bills of costs; every thing is done for ready money, and for a round sum—two guineas, ten, twenty, according to the emergency and the client's means; and if

the client is hanged, there the matter ends, without taxation and without complaint.

There is still another class of legal adventurers who are a scale higher in the estimation of the world, but with very little higher merit; they are men who prowl about for bad debts, and dishonored bills: they call on tradesmen of the better order at Midsummer or Christmas, as punctually as the tax-gatherers, and inquire the extent of bad and doubtful debts in their ledger: they buy them up according to circumstances, and obtain a rich harvest, if they can purchase five or six hundred pounds due from a score of customers, at five shillings in the pound; twenty actions are thus secured, and as many writs issued on returning to office; in half they recover nothing but the costs; if in the remaining ten they can manage to average ten shillings in the pound, they are indemnified for the purchase-money, and pocket the costs of twenty actions by the adventure, besides the frequent chance of being incidentally introduced to some half-ruined man, who wants an attorney's aid to get whitewashed by bankruptcy, or the insolvent court.

Thus I have explained the character of those

whom I exclude from the "respectable" class of my profession, whatever others may call them; and these are the attorneys of whom I always feel a painful anxiety to get quit as soon as decency will allow; but some address is required to manage one's intercourse with them, when driven by necessity into communication. There is one peculiarity of disposition inseparable from such fellows. They invariable try to snap some advantage at your personal cost, and if they fail, they uniformly pick a quarrel about nothing; so certainly is it the case, that in common with all my liberal brethren, I am accustomed to infer the quality of a man's clients by the "sharpness" of his practice, as it is termed, and I set him down for an Old Bailey attorney as a matter of course, if I find him grasping at undue advantage, or losing his temper in the attempt; a coarse, bullying manner, and disingenuous disposition, may be fairly assumed to indicate the accustomed accociate of thieves and blacklegs; they always do with me, and it is one of the few points on which I have never found myself mistaken.

There are three important rules to be observed in dealing with these men, and by

close attention to them, the most inexperienced solicitor on the roll may escape unscathed.

The first is never to be seduced into any "*without prejudice*" negotiation; always keep them at arm's length, and hold strictly to the rights, as well as the rules of business: these sort of men are rarely formidable in fair open fight, and with very few exceptions are as profoundly ignorant of law, as they are shrewd and over-reaching in practice; therefore lay yourself under no obligation to them for time, for admissions, for concession of any kind; nor ever hope to benefit your client by amicable overtures of reference or arrangement out of court: you cannot, it is true, safely assume that their honest wish is to try the issue, and that consequently they are insincere in any attempts to anticipate the result by less expensive process; for too many of them contract with their clients to "carry them through" for a given sum, and hence they are gainers by an abrupt termination of the suit; but as a general maxim, take it for granted that a "sharp practicer" will force litigation to the utmost possible extremity, if his client is a man of substance; and therefore that all over-

tures of compromise are only made to increase costs by discussion, or gain time till some absent witness is forthcoming. Meet him therefore in court, and meet him no where else. I have often been trapped by the honest desire of getting my client as well as myself out of such dirty hands, into costly discussion, but I never once succeeded in the extrication on better terms than I should have obtained by an adverse verdict. My second rule is to abjure all personal communication with suspected men: very little direct intercourse is necessary with the opposite attorney in the ordinary course of an action, and what little is indispensable, can be managed better, and far more safely in writing than verbally; even letters should be dry and laconic, consisting of little more than the date, subscription, and address, and the simple monosyllabic reply of "yes" or "no" between the formal parts. But if, as does sometimes occur, the man's impudence will force an interview, and you cannot prudently kick him down stairs, my third rule is of the utmost importance, namely, *to muster all your establishment as witnesses of your misfortune:* I am not enjoining caution that I do not prac-

tice. Some years ago an attorney called on me—a man whose word I would not have credited had he pledged it with a halter round his neck. The door from my own office into my clerk's was wide ajar, and he saw me at my desk as he stealthily entered; however, he had the decency to ask,

"Is Mr. Sharpe at home?"

"No;" replied the clerk.

"No! why I see him in his office."

"He is not at home, Sir."

"Well, I must speak to his ghost then," he rejoined, approaching my room; there was no time to be lost; I rose from my seat, rushed into the clerk's office, nearly overturning the intruder in my haste, and angrily exclaimed to my clerk, "What do you mean by this, you young rascal? did I not tell you when Mr. Tricker called, to deny me? I tell you I am *not* at home, Sir; I am attending the Common Pleas!" and slamming the door in his face, and audibly turning the key, I left him aghast at finding for once his own impudence outdone! He left the place as soon as he recovered from his amazement, and I never was troubled by him again. It is not always so easy to

release yourself, and if you are condemned to be closeted, and rudeness is out of place, the simple course is to ring forthwith for your common law clerk, and desire him to search for a letter of the 30th of February last, in the largest bundle of papers in the room! You have no other chance of safety with a professed affidavit-monger.

These are the sort of men of whom, as I have observed, I always wish to get rid as soon as possible; it is to be lamented, however, that even among the worthiest of the profession, there are men to be found as difficult to manage, though for very different reasons. It must be owned that there is a something in the nature of our daily duty, harassed as we are by a multiplicity of minute details, and hourly irritated by the absurdities of clients, the careless blunders of clerks, and the excitement of all litigation, that tends to exacerbate the temper; though nine times out of ten I have found that the direst feuds between principals, have originated in the quarrels and misstatements of their respective clerks. The young gentlemen, in their impetuous zeal for their employers' interest, are but too prone to exhibit

their small powers in grasping at a small advantage, and where they succeed, to aggravate the mortification of their rival by exultation,—where they fail, to vent their spleen by insult. This contemptible rivalry displays itself more in that bear-garden, the master's office, on taxation of costs, than on any other occasion. A squabble of half an hour about three-and-sixpence sends both parties home in the temper of wild cats; they report the scene; the attorney espouses the angry feelings of his clerk, instead of rebuking him for his ungentlemanly temper; and the principals become imperceptibly involved in recriminating correspondence, followed up by a host of alternate applications to the court, that serve nobody but some hungry junior who acquires briefs by his skill in practice. I remember a contest of this kind carried on between one of the first offices in London, and a little deformed attorney of the very lowest stamp, which lasted for several years with varying success, till at last it was referred to the master to decide on which side the pecuniary balance lay. On setting off costs on one side against costs on the other, to the amount of more than three hundred pounds on

either, the balance due to the successful party was exactly £4. 3*s*. 2*d*.! The whole of this mighty feud began in the irregular service of an attachment for non-payment of some fifteen pounds of costs, but enough vindictive feeling was displayed to have done credit to a Highland or American chief. It is our duty to uphold our clerks where they are decidedly right; it is not less so to rebuke them with severity where they are clearly wrong, even while we make large allowance for their zeal: but above all, it behoves us, and I wish I could honestly say that I had always adhered to my own doctrine, to guard ourselves against all participation in their feuds.

Now and then, however, our professional squabbles are entirely of our own creation; and then they are unpardonable. There is but one case in which I can allow an apology for them; and that is where, with the full consciousness that our client is morally, if not legally right, and that he has been victimized by a swindler, we find our professional opponent lending himself to the fraud of his client, and on the convenient but erroneous principle that it is his duty to make the best he can of

his employer's case, supporting him by technical astuteness. I have very recently experienced this provocation. I was destitute of evidence to prove that a man who had filed a bill against my client for indemnity against a covenant to repair, had already received a sum of £400 to cover the risk. I knew it to be the fact, because the man himself had admitted it to me long before litigation, or even the risk of it, was ever contemplated; but the admission was made in confidential conversation, and therefore I could not be a witness. By the advice of my counsel, and under the impression that the plaintiff was a man of principle, as he had long made loud religious professions, I filed a cross bill for a discovery; but I was mistaken in my calculation: he got into the hands of a solicitor otherwise respectable, who from peculiar circumstances *must* have known how the fact really stood, but who felt little scruple in putting in an ingenious answer that successfully *shuffled out* of the admission, and thus our expectation of evidence was defeated, and the man pocketed his £400 twice over, gratefully appropriating a part of it to present his *unscrupulous* adviser with a piece of plate

ultra his costs! I hope for the sake of both parties that it was unmerited. Cases like this cannot fail to raise the bile; and more especially when, as in that which I have been mentioning, one feels assured that the proceedings are pressed on merely for costs, against a perfect conviction of their injustice. But it is very rare that we have such fair excuse for our irritability.

We should steadily bear in mind, that after all, we are *only* the attorneys, not the principals in the cause; it is generally from losing sight of this, that we are betrayed into excitement and ill-will; exactly in proportion as we do lose sight of it, and identify ourselves with our client's feelings, we not only expose ourselves to the risk of quarreling, but incapacitate ourselves from discharging our duty to him with calm and dispassionate judgment. When however, it occurs, as of course it will occasionally, that we are opposed to a man who blusters and writes angry letters, the same course should be taken as with the affidavit-monger—avoid all personal interviews, and write your replies as laconically as is consistent with courtesy; a long letter, unless confined to simple explana-

tion, will rarely produce peace; and it is an excellent maxim that I learnt from one of the most honorable and respected men in the profession, Mr. Greaves, never to answer an angry communication, till it has lain four-and-twenty hours on your desk.

Whenever I see an attorney bristling up his quills in porcupine fashion, before any body thinks of attacking him, I always write him down an ass, unless his juvenile appearance can plead inexperience in behalf of ignorance: ours is of necessity a rough profession in many of its encounters, and we must expect rough knocks in it, and learn to bear them; but I deprecate our needlessly provoking each other to inflict them, and I am convinced, that by following the principles I have suggested, many a blow may be saved, and the disposition to give the blow often restrained.

While I sincerely believe that there are very many in the profession with whom we may safely trust ourselves in frank discussion of the merits of our case, with a view to avoid expense and possibility to put an end to threatened litigation, I am compelled to say as a general rule, that it is by no means prudent to enter

into any irregular correspondence, either by letter or in person, even to restore peace. I wish it were otherwise, for I am convinced that justice might often be done between contending parties, without law and at little costs, if their respective solicitors could place that confidence in each other which would insure an honest overture being received with equal cordiality. It is clear that every difference involving no legal question, can only arise from a misunderstanding on facts, or from irritation of temper; and all experienced attorneys are well aware that not one case in fifty brought under our notice, will be found to turn upon a new point of law, or upon such nice distinctions of circumstance as to take it out of an acknowledged principle. Where error as to fact, or excitement of temper involves men of respectability in a controversy about their respective rights, how easy is it for a clear-headed attorney to get at the truth by a little open conversation with his opponent, if that opponent will only meet him with the same laudable purpose of setting the parties right! nor, if I may judge from my own experience, is this conciliatory disposition a losing game in the

long run: it may be attended by a sacrifice of costs in the particular case, but on the other hand, it insures a return of your client on every difficulty.

Such, however, is our unfortunate jealousy of each other, and so powerful the habit of zealously espousing the client's cause, whether right or wrong, that a solicitor's character must stand very high indeed, to warrant us in any conciliatory appeal to him, with a view to an amicable arrangement. I have known the strongest disposition professed to avoid extremes, and followed up too by an apparently frank exchange of explanation; when after all, the opposite attorney has abruptly terminated the negotiation, throwing the fault on his client's obstinacy, and availing himself of the knowledge which he has thus acquired of your case, to prepare himself the better to meet and to defeat it; for it must be recollected that though letters may be written "without prejudice," and thus protected from all attempt to misapply them, knowledge or information can not, from the nature of the case, be conveyed without prejudice, unless you could insure a man's divesting his mind, as jurymen are ab-

surdly directed to do, of all that he has previously heard. I heartily wish that attorneys of the respectable class would more habitually repose a friendly confidence in each other, though I scarcely know how it can be expected, till some better protection can be devised for amicable negotiation.

Nor again, must any attorney blindly trust to the good-nature or indulgence of an opponent, however respectable, or however personally friendly. I was nearly involved in utter ruin by a blunder of this kind, though I was engaged with one of the largest and most respectable houses in the city, with the heads of which I have always been on the best understanding. A client of mine, a trustee, had sold the trust estates on most advantageous terms. The purchase was to be completed by a certain day. The solicitors in question were acting for a mortgagee whom we had given notice that we would pay off out of the purchase-money. When the day arrived, I was unable to complete the purchase, in consequence of my conveyancer having been called out of town by the fatal illness of his mother, and taken with him the draft reconveyance of

the mortgage. Believing myself to be in fair and friendly hands, I gave myself no trouble about it, and in a few weeks after, being then ready, I proposed to settle the transaction. To my utter amazement, these gentlemen obstinately refused, insisting that their client was entitled to a fresh notice of six months, before he was paid off! There was no pretext for saying that he had lost any opportunity of otherwise investing his money, but "*sic volo, sic jubeo*," was all their argument. Meanwhile, the purchaser had his money ready, and insisted on completing the purchase, or being let off his bargain; while my client menaced me with responsibility for any loss of price, if driven to a re-sale of the estates: that loss, in all probability, would have been many thousand pounds. I appealed, but I appealed in vain to the liberality of my city friends; their six months' notice they would have, if I died in jail as the consequence; my trustee client had obviously no power to spare me; I was saved by the liberal kindness of the purchaser, who, though anxious to be released from his contract, would not buy that release at my expense, and consented to wait till the six

months had expired. I might on three occasions since, have re-borrowed the money for other clients from the city mortgagee, but I have had at least the satisfaction of declining further business of the kind with such punctilious gentlemen.

CHAPTER XV.

"Mutua benevolentia utetur cum sciat se tanto plus præstitisse Ipse litigantium auxiliator egebit auxilio."

QUINCT. de Inst. Orat.

I HAVE found it far more difficult to regulate my intercourse with counsel by any systematic rules, than to manage either my client or opposing solicitors. We certainly have less provocation to temper in this case, because we can never come into personal collision with the members of the bar, except in open court, where the authority of the judge is, or ought to be, exerted to preserve not only the peace, but the decorum of society. I have sometimes witnessed a great deal of overbearing insolence from barristers of every standing; but never except from men naturally coarse, and like some solicitors that I have described, mere adventurers, though often successful ones, in their profession. So far, however, as my own

experience has gone, these men are exceptions to the general rule. I recollect one occasion about eighteen years ago, when a learned barrister was defending a prisoner whom I was prosecuting, his eloquence was at a loss for a better argument, and therefore in addressing the jury, he charged me with having falsely instructed counsel! his client was convicted, and thus the jury showed *their* sense of the value of the charge. I was then so young that I knew not how slight was the insult conveyed by such professional attacks; but being my opponent's equal in all the adventitious circumstances of education and social position, and somewhat his superior in birth and connexion, I resented the supposed affront by giving him my card. I cannot describe my amazement, when instead of receiving the hint in silence he tossed it from him with an air of affected indifference, saying, "I throw it back with contempt;" but taking especial care at the same time to fix the attention of the judge on this daring violation of forensic privilege, so as to avoid the bare possibility of unpleasant consequences. The obliging interposition of Mr. Law, the present recorder, healed my

wounded feelings; or I might have been betrayed by anger into a very disagreeable position. These attacks, however, are, as I have observed, rarely made on solicitors of acknowledged character; nor, in truth, could I quote another such instance towards myself in nearly twenty-five years' acquaintance with the courts; it is because it is almost unique, that I think it worth mentioning. The usual style of insolence is of a very different description: it is a supercilious hauteur that implies total disregard of the attorney, the client, the cause, and the fee. On the latter point, I incline to think that the disregard is entirely assumed, but in all other particulars, it is too natural to be insincere. This is a professional folly that often entails its own punishment, for I have good reason to know that gentlemen of this character always lose business, unless they can command their briefs in spite of the attorneys, and are rarely employed of spontaneous goodwill, but only because our clients will not be satisfied without retaining them. It may be a good policy of our clients, but it is an expensive one; for many a time have I been compelled to employ two leaders when one would

have sufficed, and when only the costs of one were allowed, that I might make sure of having a man who would condescend to read his brief, and listen to a suggestion even from the attorney. What a contrast to such men was afforded by Garrow, Best, Vaughan, Gurney, and even Sir Vicary Gibbs! And in the present day, though Campbell is supposed to be difficult of approach, I never found him inaccessible; while Wilde and F. Pollock will readily and kindly listen to every word, whether to the purpose or not. Brougham was another most ready listener, as well as a most efficient advocate; I believe that many regret yet more than he does himself, that he ever left the bar for the bench. Erle, though reserved, is always courteous to formality; Talfourd is not only courteous, but cordial; and R. V. Richards pays more good-natured attention to one's case, and fights it through with more vigor than any man I ever met with except Wilde or Gurney. The success of Law and Thesiger, distinguished as they both unquestionably are for forensic power, is perhaps yet more to be attributed to their frank good-humor. I never employed Follett, and there-

fore am unable to speak of his merits or demerits in this particular. I was once opposed to him on a reference before Serjeant Storks many years ago: and as he was also opposed to the Serjeant on every legal point that occurred in it, I conclude he knows something of law. I might mention too many of a very different disposition, but it is not fair in an anonymous work to quote the names of private individuals to their prejudice.

But to return to my immediate subject. If we find ourselves uncourteously received by counsel, I think that the fault is essentially our own: it may happen with such men as Scarlett used to be, and perhaps, with two or three others of the present day, that they are raised by talent, and yet more frequently by happy opportunities, to a distinguished position that renders them independent of the good-will of the attorneys. When this is the case, if they haughtily forget the kind offices that first found for them opportunities of attaining acknowledged distinction, it only shows that their minds are little, however great their law: we should rather feel pity for them, than trouble ourselves about the contempt they may

affect for us. With all inferior men, however, we have the remedy in our own hands, had we only sufficient *esprit de corps* to use it. I recollect when, several years ago, we were obliged to employ four or five leaders in every stage of every cause in Chancery, because we never could reckon with certainty on the attendance of even one! This man was at the Rolls when we wanted him before the Chancellor, and that man was in the vice-Chancellor's court when wanted at the Rolls. The solicitors made common cause of it, and published their determination to give no brief to any counsel that would not confine himself to one court. The bar blustered and talked big, and such was our jealousy of each other, and our want of union, that our purposed reform was almost defeated; but the demand was reasonable, and every man of good feeling was convinced that the interests and the money of our clients ought not to be sacrificed to the grasping cupidity of counsel. I think it was Shadwell who first announced his intention of confining himself to one court, —the vice-Chancellor's. His example was gradually followed, and we have now for several years had the advantage of knowing

where to find our leaders when we want them; the victory is to be ascribed to our having the good sense to avail ourselves of the power which the bar, not less than ourselves, are conscious that we have over them. I am far from saying that this power ought to be, or indeed could be successfully exerted on every petty occasion, but undoubtedly it might be fairly brought into play against any barrister who habitually insulted us; and even that share of it, which each individual enjoys in proportion to the extent of his business, ought to be sufficient, if managed with dexterity, to protect him from any repetition of personal offense. Barristers have at least as much if not more sensibility about the failure of clients than ourselves, however they may affect a lofty disregard of the emoluments of their profession. I have often been amused at the indirect appeals, and sometimes the downright mendacity of cousins, connexions, and friends, for a stray brief, or a casual motion on behalf of a "relation at the bar, if my engagements to other gentlemen allowed me!"

Independently, however, of the influence which we derive from this acknowledged

dependence upon us, and which we are well warranted in using for our own protection, I cannot help thinking that we may find a yet better security for due respect in our own deportment. We must always bear in mind that in point of etiquette our professional grade is lower, and therefore we are not justified in expecting deference as lawyers, however well entitled to insist on courtesy as gentlemen. This should be the limit of our pretensions; it is only when this is forgotten that we have any title to complain. We are excusable in resenting any imputation against our conduct as gentlemen, let it proceed from whom it may, or any sneering recognition of our station. But we are not entitled to assume a professional equality with the bar, merely because it draws its immediate support from us. There is, it is true, an exclusive temper in its conventional etiquette, that, in these liberal times, is perfectly ridiculous. I have known a brother refuse to dine with a brother in an assize town, the one being counsel, the other attorney, because it was held *contra bonos mores* at the bar mess. Springing as this does from the jealous feeling that barristers entertain of each other, lest

undue means should be exerted in familiar intercourse to obtain briefs, it is not less confessedly disgraceful to themselves as a body, than it is offensive to those whom it insults: this exclusiveness reflects no discredit on our class, though much, avowedly, on their own. Against offenses of this kind we cannot protect ourselves; but against any offered to us individually, we easily may, by always observing that self-respect which commands respect, *invito animo*, from others. I have mentioned the only instance that has ever occurred to myself, in which I could fairly quote language applied to me by counsel, of which I feel justified in complaining; and I attribute my exemption from an annoyance to which I have daily seen others exposed, principally to the care which I have always anxiously taken never to lay myself open to reproach for conduct unworthy of an honorable member of my profession; but in some degree also to a demeanor implying at once perfect equality of station, and yet respectful deference to superior knowledge and professional rank. We should recollect that as the military officer is nobody except on the parade, or in the ball-room, so the lawyer loses

all distinction out of Westminster Hall, and when we meet in the world, we meet on equal terms; this is perfectly consistent with the discipline of the ranks.

Occasions do now and then occur where the self-command that I am recommending becomes extremely difficult to practice; more particularly when we are attending gentlemen high in legal office. I remember a case of this kind with the late Master Stratford. A solicitor of great eminence was attending him; the Master had already intimated a very strong opinion on the matter in dispute, and it is well known that he was not very well pleased with contradiction, nor much disposed to listen to it; the solicitor, however, was resolute to be heard, and finding there was little chance in any other way, determined on angering him into silence; rather a novel means of obtaining an audience, but in this instance quite successful.

"I was observing, Master Stratford—"

"I have heard your observations, Sir, (*angrily*,) till I am weary of them; I beg you will be silent, I have quite made up my mind."

"I see you have, Sir, but it strikes me that—"

"I really cannot help what strikes you, Sir, I shall not hear another word."

"I am sorry for it, Sir, I have a great many yet to offer."

"Indeed! (*half rising from his chair, and then resuming it,*) pray, how long may you intend to talk?"

"Probably half an hour, Sir; it depends on the attention you will be so good as to give me."

"Half an hour, Sir! did you say half an hour, Sir? do you know who you are talking to?"

"It may take me a trifle longer, Master Stratford, it depends on yourself in some measure."

"On me, Sir! on me! insufferable insolence! half an hour! depends on myself! pray what may your name be, Sir?"

"Fairfield, Sir. If you are ready I will begin."

Here the learned Master drew back his chair, and actually gaped in astonished frenzy at this unwonted defiance of his wrath, during which Mr. Fairfield coolly proceeded with his argument, wholly undisturbed by the judicial

agitation, and quoted cases by the dozen. Meanwhile his client, an honest tradesman who knew as little of the etiquette of the Master's office as of St. James's, being weary of standing, seated himself on the nearest chair. This new offense actually bewildered poor Stratford; he looked from the solicitor to the client, and from the client to the solicitor, in mute amazement, wholly regardless of the argument and the authorities, when at this instant a servant boy entered the august presence with the coal-scuttle. A happy idea flashed across the Master's mind. Rising precipitately from his chair, and grasping the lad by the arm, he forced him into it.

"Here, Jack, take my chair! take my chair! I don't see why one *gentleman* should not sit down as well as another!"

The frightened boy took the chair; Fairfield, who was a man of uncommon talent, that justified as it was supported by uncommon assurance, continued speaking, as if unconscious of the substitution; the farce was too much even for the Master's wrath; he laughed himself into good humor, heard the argument to the end, and, *mirabile dictu*, altered his

opinion; not the less readily perhaps, because he knew that Fairfield was a character not to be trifled with.

A case not very dissimilar so far as regards its judicial dignity, occurred to myself. An action had been compromised between me and the opposite attorney, subject to a question of costs on which we could not agree, and which we were both perfectly willing to leave to the decision of the judge: with the view of obtaining his opinion we attended him on a summons, the terms of which had been previously arranged between us, "to show cause why proceedings should not be stayed without payment of costs." We were the first whose turn it was to enter. His lordship glanced at the summons, and seemed somewhat doubtful as to its meaning, but began very sharply, not addressing himself particularly to either of us.

"Well, Sir, what cause have you to show?"

"We have agreed, my lord,"—

"Then if you are agreed, Sir, why do you trouble me? (*impatiently*,) call the next summons."

"Your lordship has misunderstood me; we agreed to leave it to"—

"Well, Sir, you may take your leave when you please; (*snappishly*,) are the next parties ready?"

"If you will not hear, my lord, it is useless to"—

"Not hear you, Sir! (*angrily*.) I asked you what cause you had to show? and you can show none."

"It is not *my* business, my lord; it is *my* summons."

"Well then, (turning short round to my opponent,) can *you* show cause?"

"I think I can, my lord, if you will listen to me."

"And haven't I been listening to you for the last half-hour? go on, Sir."

"The action has been compromised, my lord, but"—

"Compromised! then why do you come here? (turning to his clerk,) call in the next. What business have you here?"

"Really, my lord"—I began, but in vain.

"Can you show cause, Sir?"

"I have already told your lordship that the summons is mine."

"Then can *you* show cause, Sir?" turning again to the other.

"Not without explaining the case, my lord."

"Then, gentlemen, you may go; you may take your order: call in the next."

"On these terms I cannot take it, my lord."

"I imposed no terms, Sir; the order is made—call in the next."

"Your lordship will"—

"Be silent, Sir; you can show no cause—call in the next summons."

"If your lordship will give me one minute"—

"Silence, Sir; I have decided the point;—are the next ready?"

And so we took nothing by our motion, though we retired deeply impressed with the condescending kindness, no less than the profound learning, and calm endurance of the judge. We went to the chambers of Mr. Baron Vaughan, explained the matter to him; and his lordship, with an affability and a kindness that I never can forget, not only settled the immediate point, but perceiving that it involved a personality of feeling between our respective clients, entered into the whole subject with extra-judicial interest, and suggested a course for the perfect arrangement of all remaining difficulties. His lordship's advice

was followed to the letter, and with entire success.

The dignity of the judicial ermine is not always thus pleasingly illustrated: the pre-eminent purity and lofty pretensions of the forensic body require occasionally to be vindicated from the bench, in a way less calculated, I confess, to secure our grateful acquiescence. It can only be attributed to a sense of what was due to the corps of which he has been so long a distinguished member, that Lord Abinger, in charging the jury on the trial of a cause lately before him, made use of the following expression in reference to a libellous attack on Mr. Thesiger and a solicitor of the name of Harmar: "It might be very well for Mr. Thesiger to treat that with contempt which Mr. Harmar, *moving in the sphere of an attorney*, might be called on with equal propriety to defend himself from the effects of." It cannot but have given pain to a man of his lordship's acknowledged urbanity, thus to find himself compelled by a sense of duty, to teach our whole profession a lesson of humility, and check those aspirings which might have led many of us in our ignorance, to place ourselves

in reference to our domestic life, its feelings, and its wrongs, on a level with Mr. Thesiger! Those who do not know how entirely the judicial mind enjoys its existence, separate and apart from the man who owns it, would be apt to mistake this judicial dictum for an illiberal sneer, unworthy of the judge, and foreign to the subject!

We sometimes find ourselves in a position, in which, it must be acknowledged, that temper and self-possession are sorely tried; yet it is one from which, by preserving both temper and presence of mind, we can always extricate ourselves with advantnge. A prudent attorney will never put himself in the witness-box, if he can avoid it; occasionally, however, it is inevitable, and when he gets there, he is considered fair game. I never was in this situation but twice: on one of these occasions I was under the fire of a cross-examination by Scarlett, no very enviable position even for the most honest witness, it must be owned. An important letter had been lost in my office; lost by that excess of precaution which one sometimes takes with very important documents; I had locked it up in some drawer for security,

and on the eve of trial could not discover where I had placed it; but when engaged in consulting counsel on the case before I commenced the action, nearly three years before the cause was tried, I had introduced a copy of this letter into the statement, and had read the letter to my clerk while he transcribed it. I tendered this copy in evidence: of course Scarlett opposed its admission, for nearly the whole question of damages turned upon it.

"Do you commonly read letters for your clerks to copy, Mr. Sharpe?"

"No, Sir."

"It would be rather an inconvenient practice?"

"Certainly."

"Did you examine this copy after he had made it?"

"Not that I remember; certainly not to check its accuracy."

"Then you cannot *swear* to its accuracy?"

"I cannot; but I believe it to be accurate."

"Why?"

"Because it consists of but five lines, so there is not much room for error; and I had every inducement to be accurate in consulting counsel on the merits of my client's case."

"Did you show the original letter to your counsel?"

"Most likely I did. I cannot be certain at this distance of time, but I have no doubt I did."

"Then you did not at *that* time rely sufficiently on your belief in its accuracy to trust to the copy only?"

I saw the drift of the question, and hesitated; of course I received the usual rough salute,

"No hesitation, Sir; did you *then* believe the copy to be accurate?"

I still demurred — repeating the question, but not answering.

"Come, Sir! no fencing with me; as an attorney you ought to know better."

I remained silent, pondering over the question.

"I *will* have an answer, Sir: did you *then* believe the copy to be faithful?"

"To what time do you refer?"

"When you consulted counsel."

"Three years ago?"

"Yes, Sir; three years ago."

"Then I will not answer your question, unless his lordship decides against me."

My own counsel ought to have made the objection, but, from discretion sometimes, they are too tardy in protecting a witness. Lord Denman, however, (who knew me well, and from whom I never but once received a harsh word, and even then I believed he designed it kindly, though it was unjust) came to my aid.

"What is your objection, Mr. Sharpe?"

"Your Lordship will perceive that the question does not refer to *present belief* nor to a past *fact*, but to the impression existing on my mind three years ago; how is it possible for any man to state with certainty the precise limits of his *belief*, not as to what were the occurrences of to-day, or yesterday, but as to what he believed at a period so remote?"

His lordship reflected for a moment, and overruled the question.

"It is not a fair one, Mr. Scarlett. Go on."

But Scarlett had had enough of it, and left me to gain a verdict without further interruption, though he looked as if he could have eaten me, however unaccustomed to fare so tough

Many assaults, far more rude than this, are hourly made by counsel at *nisi prius*, on attorney

witnesses, and I cannot forbear observing, that in general the court is far too indulgent to the bar on these occasions. It is possible that in an idle hour even these pages may meet a judicial eye; I have known some of their lordships amuse themselves with more unprofitable books! should such an honor await me, I must be excused for reminding my most learned lounger that it is the duty of the bench to protect a witness, not less than to compel the truth. I do not say to screen him, but emphatically to protect him: and where a judge, from reluctance to face the sneers of counsel, or to encounter his coarse remonstrance, allows him to practice on the timidity, or outrage the just sensiblility of a defenseless witness, or what is worse, to calumniate and stigmatize one who is no party, except professionally, to the cause, and who has no opportunity of being heard in explanation, that judge is not less guilty of a violation of his oath, than if he sold his opinion or his influence to the highest bidder: I have often been disgusted, not less with the cowardly license assumed by the bar in their comments on third parties, under the convenient plea of forensic liberty of speech, than I have with the

apathy of the judge who heard them, and silently permitted the scandalous abuse that he ought to have checked with solemn indignation. On some rare occasions, when the language of counsel has grossly exceeded the limits of common decency, and the insulted witness has been provoked into keen retort, the bench perchance has interfered; but how? by haughty reproof to the unfortunate victim, and expostulation with his vulgar assailant, so mild and so equivocal, as to imply sympathy with the offense, rather than stern rebuke to the offender. It is a national feeling to love and reverence our judges, and long may it continue to be so: but they little know how they shake that love and reverence to their very foundation, when they thus betray a partiality to their corps, that tends to deter all men of respectability and of nervous temperament, from the highest duty of a citizen, bearing his testimony to truth and justice in open court! Such is the horror of the witness box, that I have often known a good and honest case abandoned, to spare a relative, or a friend, the pain of entering it; and on one occasion, I have even known a witness pay the debt and costs, rather than be

exposed to the risk of insult that he dared not resent in court, and would not have brooked elsewhere! Attorneys, however, ought to recollect that the same man who insults them for the guinea he receives from their opponent, will readily eat his own words if they choose to give him two; and, consequently, that this, as far as they are concerned, is the full value of the libel. Where counsel offend this way habitually, their names should be written on a black board in the hall of the Law Institution, as proscribed men. This would speedily work reform.

CHAPTER XVI.

"Doubtless the pleasure is as great
Of being cheated, as to cheat."—BUTLER.

YET it is a pleasure which in duty to our clients, we must deny ourselves, however profitable may be the litigation into which they sometimes cheat us.

I have already hinted that the statements of an angry client are never to be received for gospel. It was long before I discovered this, and yet longer before I also found that his witnesses are rarely to be trusted at all! The mistake is very natural: in the first place one feels strangely predisposed to place implicit faith in an honest fellow who gives the best possible proof of sound judgment in choosing you as his adviser; and then, one's pocket sympathies are wonderfully excited in his behalf, (especially if the case is a heavy one,) and after all, he must know his own affairs

better than we can do! Moreover, when it does happen that *ex superabundanti cautela*, we ask him for his proofs, there never is any lack of evidence. "Mr. Johnson is a witness! he heard every syllable! and Mr. Atkins managed the whole business, and can vouch for everything!" The next day he brings Mr. Johnson and Mr. Atkins, and they do vouch for everything, and in the state of excitement under which they see their employers labor, would willingly vouch for ten times more if necessary, and find twenty other witnesses to back them. No wonder if the attorney is deeply impressed with the conviction that all is true and accurate! especially when the bare intimation of a doubt will be interpreted into the lie direct, and resented as a serious insult by the client, who came good-naturedly to employ him! Hence the writ is issued, retainers are given, and it is not till the eve of trial, when costs to a large amount have been incurred on both sides, that the attorney begins to think it strange that so clear a case should be so resolutely defended; he again catechizes his client, who by this time has become calm; and their employer being calm, the clerks become doubt-

ful, whereupon the "very clear case" becomes as hazy as the city in November, and the only obvious point remaining is, that the notice of trial should be countermanded, and the costs taxed and paid! *Mutatis mutandis*, the same result still oftener happens on the defendant's side. When, however, the excitement has subsided, and the sober certainty of costs only occupies the mind, it is rare indeed to find a client possessed of that amiable disposition, that he will admit having had "value received" in the sympathizing credulity with which his attorney listened in the first instance to the tale of his supposed wrongs: on the contrary, he blames you behind your back, and reproaches you to your face for "not having set him right," forgetting that had you even attempted it, at a moment when he would not believe the possibility of his being wrong, he would have made a quarrel of it, and gone elsewhere for advice!

An absurd blunder of this kind once occurred to me, which, though of trifling pecuniary amount, will serve to illustrate my meaning. A friend who resided at a considerable distance from town had a quantity of old

family plate, which he wished to be cleaned and repaired by a London jeweler. He transmitted the plate chest, with a large parcel of papers, separately packed up, to his agent, with directions to leave the plate chest at the jeweler's, and retain the papers. These directions were literally complied with as regarded the plate, but not having a convenient place to deposit the papers in, he sent them to the jeweler's along with the chest. After two or three months, the plate was sent home, and the jeweler at the same time returned the paper parcel to the agent. My country friend on arriving in town, a considerable time after, applied to the agent for the papers which he had sent to him; the parcel was delivered up, but on opening it some turnpike bonds were missed! The agent declared he had never received them, nor even opened the parcel beyond removing the outside envelope. A violent altercation ensued, in which my client used the terms "thief," and "swindler," somewhat emphatically, and was, therefore, somewhat emphatically kicked out of the agent's chambers. In the full tide of fury he came to me, attended by his servant.

"I have been robbed, Mr. Sharpe! robbed and kicked! yes, actually kicked, Mr. Sharpe! haven't I, John?"

"Sure you have, Sir!" answered the groom.

"Robbed! kicked! what do you mean! was it in the street?"

"Master was kicked into the street, Sir, sure enough!"

"Ay, Mr. Sharpe!" kicked into the street by the ruffian that robbed me."

"What, in open day! we must go to Bow street; tell me the facts while my clerk calls a coach."

But on hearing the circumstances as above detailed, it occurred to me that even the charge of embezzlement could scarcely be sustained, though I entertained no doubt that the man had sold or pledged the bonds, especially when after another minute search, everything else was discovered in the parcel. My client had brought his servant with him to confirm his statement, and John swore stoutly that he had packed the plate chest, and made up the parcel himself. He had grown up in his master's service from childhood, and I checked a suspicion that flashed across my mind, that he

might himself be the thief. The agent had a fair reputation, and was supposed to be in good circumstances. I therefore, without more hesitation, brought the action. My client left town, and proceedings went on in the usual course, till the sittings approached. I then thought it high time to take instructions for my brief, and subpœna John. It was also necessary to prove the safe carriage of the parcel till its delivery; and to collect this evidence, I put myself into the mail, and proceeded to my client's residence in the country. I obtained all the evidence I wanted in the course of two or three days, but he must needs have a party to meet me at dinner the day before I left him. It consisted of five or six of the neighboring gentry and their families, and the splendor of the sideboard on which his plate was now set out for the first time since its return from the jeweler, naturally led the conversation to the approaching trial. Many and bitter were the comments made on the assurance of the agent in carrying matters to such extremes; and many and cordial were the good wishes for a safe deliverance to the host.

"Ay, ay," said Mr. Hubblebubble, joining

in the chorus, "I'll get some satisfaction for my kick now, or the devil's in it. What costs will he have to pay? eh! Sharpe?"

"The costs on both sides, I should think, will be near two hundred, taking in the five witnesses I sent up to-day."

"Two hundred! is that all? well! 'tis some comfort to make him pay two hundred pounds for smart money; mind you lay it on thick, Sharpe: don't spare the fellow."

Here John, who had just entered the room with a bottle or two of very choice claret, in which his master wished to drink to our success, came close to his elbow, with the look of a famished pointer caught in the larder, holding the silver-mounted claret jug in his hand, and whispered into his ear in a semi-audible tone,

"Master! Master! can I speak to you, Master?"

"Speak out, fool! what's the matter? is the cellar robbed?"

"The bonds, master!—the action—the claret —the bonds—" hesitating between each word as if it choked him, and apparently as much afraid to finish his explanation, as the said pointer to finish his meal in the face of the angry cook.

"What do you stand jabbering there for, like a crow in the colic? speak out, Sir!"

"I've brought the claret, Sir, 'tis the right sort, Sir, I'm sure, as sure as I packed the plate chest, master! but the bonds,—the bonds, Sir, —the claret jug,—"

He obviously dared not proceed, and gaped open-mouthed at his master, who returned the gape with interest, having some undefined presentiment of evil, but too tipsy to arrange his ideas: I guessed the solution, and came to their common assistance.

"I suppose you removed the false bottom of the plate chest in getting out the jug, and there found the bonds?"

"Exactly so, Sir. Miss Letitia thought they would be safer there than in the parcel, and put them in while I was in the kitchen!"

Hubblebubble was sobered in an instant, though one universal titter, more painful even than the kick, pervaded the room: it was too much for mortal patience; he pushed back his chair—put down the untasted claret—and alternately staring first at John, and then at me, slowly and painfully drawled out the question,

"Two hundred pounds, did you say, Mr. Sharpe? two hundred pounds for costs?"

"Yes, Sir."

"Then why the devil didn't you think of this before, Sir?"

But the laugh was too hearty, and too well merited, to allow ill-humor to remain. Before the claret was finished, the kick was acknowledged to be deserved, and the action was settled by that night's post.

It would have required more than ordinary acuteness to have escaped this catastrophe, and I cannot to this day confess to error on my part, but this was not a common case. I will mention one of more frequent occurrence.

Every Cantab, however steady his career, and I must acknowledge that mine was not remarkable for sobriety, is sure of falling in with some wild acquaintance, who in after years stands in great need of assistance in one way or other. It is an easy transition from academic "gaiety" to metropolitan dissipation; and the dissipation of young men "on the town," has gradual, but certain stages from difficulty to shifts,—from shifts to gaming,—from gaming to the depths of ruin. One of

these unhappy wretches called on me in the stage of shifts; his brother had remitted him three hundred pounds from India, by a good bill on merchants in the city. The spendthrift took the bill to his agent to be discounted; the agent declined discounting it, but retained the bill till it arrived at maturity, and received the money. My client applied for it, and was refused; he came to me with this story, but he told me nothing else; it was "a clear case." I demanded payment by letter, and obtained no answer. I called on the agent half-a-dozen times, but he was never at home. I arrested the man, but he put in bail, and defended the action; his attorney was not less cautious than himself. I could get no information — no clue to the intended defense; the days of special pleading had not yet burst upon us in all their glory, and the plea left me as ignorant of the case as I was before. I catechized my client with determined scrutiny.

"What did he say to you when you gave him the bill?"

"He would see about it."

"Were you alone?"

"Scamperdale was with me."

"Did you ever ask him to discount a bill before?"

"Twice, and he did it."

"Have you had many transactions with him?"

"Of course I have; as agent for my regiment I could not avoid it."

"Do you owe him money?"

"No! not a farthing."

"You are certain?"

"Quite so."

Scamperdale confirmed the statement, and we proceeded to trial, my counsel, as well as myself, being assured of a verdict. Scamperdale was put into the bar to prove the delivery of the bill; but what was my amazement at his cross-examination!

"You are a brother officer of the plaintiff?"

"I am."

"You have had many pecuniary transactions with him?"

"Certainly."

"Is this your writing?" producing a bill of exchange.

"It is."

"Did the plaintiff accept that bill for you?"

"Yes."

"And who discounted it?"

"The defendant."

"How long has it been over-due?"

"I see by the date that it is above two years!"

It was a bill for £350, and the defendant further produced a letter from my thoughtless client, authorizing him to deduct it from the first moneys of his that came to his hands. It had been the subject of much angry correspondence at the time; but two years are a sort of Lethe to a frequenter of hells and saloons. He had utterly forgotten the dishonored acceptance, and I, to my shame be it spoken, had also forgotten to ask for all correspondence between the parties. The plaintiff was taken in execution for the costs, and when twenty detainers had been lodged, sold his commission, obtained his discharge by a shilling in the pound, and emerged from the Bench after two years' imprisonment, a finished blackleg!

No matter what a client says, or swears; no matter what his friends, his clerks, or his servants say, or swear, for him; let the first rule be, whatever facts are in dispute, or a case seems too clear to admit of doubt, and the resistance is unaccountable, to ask for all correspondence.

CHAPTER XVII.

"Quot scelerata gerat fœmina mente dolos!"—Ovid.

Of all witnesses in an honest cause, an intelligent child is the best. Of all witnesses, in any cause, a woman is the worst, unless she happens to be very pretty and engaging, and then she will answer the purpose, whatever it be, most successfully. The counsel examining in chief, ogles her with one eye and the jury with the other, while a marked suavity of demeanor seduces the fair *debutante* into perfect ease; the gallantry of the bench, let his lordship be as old as Methuselah, bestows somewhat more than a transient glance, and wanders into a conversational familiarity on every doubtful or hesitating answer. The jury, one and all, lay down their notes, fix both eyes and ears on the witness-box, whisper to each other, smile indulgently on every pretty little *embarras*, and

let the lady swear what she will, cross-examination is out of the question. Such outrage to the charmer's self-complacency would be suicidal to the best of causes.

I once experienced a very vexatious illustration of all this. I was engaged for the plaintiff in an action for libel, where a justification had been pleaded. The libel was a gross one, and we were going on swimmingly towards ample damages. The action was founded upon an imputation of falsehood conveyed in very coarse language, in having charged a master with oppressive and cruel treatment of a servant. The servant herself had been put into the box, and fully bore out the heavy charges my client had preferred on her behalf; her quiet and collective manner of giving her evidence had obviously produced a favorable impression on the jury. To discredit her testimony, a young lady of only two-and-twenty, the daughter of the defendant, was called. She was uncommonly pretty, I might even say beautiful, and the elegance of her manners and dress rendered her irresistible. Wilde, who was my counsel, was horror-struck with the apparition: he leaned over the desk to me, after attentively

eyeing the jury, "Sharpe, we are done!" and "done" we were most assuredly, though her evidence, strictly weighed, was not worth a straw, for the jury gave us but five pounds, and we thought ourselves fortunate in getting even that, under such untoward circumstances.

My reader will say that this instance militates against my general position, and to a certain extent I admit it; but for one fair witness like this you will meet with twenty as ugly as Hecate, and as nervous as a young orator on his first appearance on the platform; nor, and I grieve to say it, is youth, or sex, or beauty, any security for honest testimony: the most disgusting, the most dreadful instance of spontaneous, deliberate perjury, that I ever met with in all my professional life, was in one in whom all these attractions were combined, and that to no common degree. My work is necessarily anonymous; but my anecdotes, though for the reasons I have given at the commencement, in some measure disguised, are all substantially true. In that which I am about to mention, I will be literally, as well as substantially accurate, that I may not be charged with a libel on human nature, bad as that nature is.

It was an object of great importance to a client of mine, of great respectability, to trace the steps of a man on a given day; this man being suspected of certain designs highly injurious to his family, and the justice of those suspicions depending in some degree on the locale of the man at the time in question. I had reason to believe that this man was at Tetsworth, on a Tuesday, on the very day that my client's daughter chanced to be on her way from Oxford to town. I should premise that it was a case in which marriage was *impossible*. She called on me by her father's directions the day after her arrival, to deliver a message of some importance. I had for many years been on terms of close intimacy with all the family, and had previously been requested by her father to expostulate with her on the degrading and dangerous tendency of her acquaintance with Mr. Ball, who was a low tradesman, much her inferior in station and birth. It was about three months before this visit to me, that the expostulation had taken place, and as it was made with kindness, so it was received with grateful acquiescence. After she had communicated her message, I expressed a hope that the

domestic peace had been uninterrupted since our last meeting; she assured me that she had followed my advice so strictly, that she had broken off all acquaintance with Mr. Ball, and *had neither seen nor heard from him for three months past.* I expressed my extreme satisfaction at this, and we parted. On the Thursday she again called on me to say that she was returning to the country the following day, and would be happy to take back any message to her father; but it so happened that I had business to transact very near their country residence, and was going down myself. I told her so, and promised myself the pleasure of being her escort. I observed that she turned very pale, while she muttered something about the unexpected satisfaction, and so forth, and did not seem half so well pleased as she professed herself to be. However, we settled that we would leave town the following day by the coach, and I engaged to secure her place with my own.

In less than an hour she returned to my office to say that unexpected circumstances had compelled her to defer her departure till Saturday afternoon. I was surprised, but made no

remark, and adhering to my own plans, I left town for Oxford by the coach, at the time I proposed. We changed horses beyond Tetsworth, but on passing through the village, the coachman drew up at the door of the inn, and asked for a great coat that had been left there by the gentleman that he took up on Tuesday. Sundry coats were produced, but it was difficult to decide which was the right one; after much description of the passenger's person, the landlord appeared, and put an end to the difficulty, by producing a card which he said had been left by the owner of one of them, to identify his own when he sent for it. The coachman immediately recollected the name, and received the coat, asking at the same time for the card, that he might remember where he was to send it, as he had forgotten the passenger's address. I returned to town the following day by the same coach, and as we approached London, I reminded the man of his carelessness, and inquired if he still had the card, little suspecting the discovery to which it would lead; he produced it, and I offered to note down the address on his way-bill; having done so, I retained the card, which had the name of Ball engraved

on it, in the usual form of a visiting card, and not like a tradesman's. Hence I felt doubtful of its belonging to the party suspected.

On arriving at my office, I dispatched to the lady a letter that I had brought for her from her friends, and I enclosed it in a note from myself, requesting to see her before she left town the following day. She called; I will give the conversation as it passed. After the usual salutations, she proceeded:

"I shall have a dull journey to-morrow, Mr. Sharpe; I am now sorry that I could not go with you."

"So am I, Mrs. Haller, but you may chance to fall in with more amusing fellow-travelers."

"Oh no! I fear I shall be all alone, as I was in coming up."

"It was on this point that I wanted to speak to you; had you no companion *then?*"

"Only part of the way; a lady got in at Uxbridge."

"Well, that is very strange, for I understood from the coachman that a gentleman got in at Tetsworth."

"Dear me! I quite forgot *that*, so he did; but he only traveled a mile or two."

I saw she was practicing on me, and I purposely changed the subject; she remained for half an hour while I wrote to her father on the business in which I was engaged for him; as I was about to seal the letter, she asked to look at it. I guessed her motive, though she excused her curiosity on the pretext of wishing to give any verbal explanation, if I wanted to convey a further message by her. After she had read it, and found that it contained no allusion to herself, her countenance brightened up, and she hastily rose to take leave As she approached the door, the letter being still unsealed, I said to her very gravely,

"Mrs. Haller, I should like to add a postscript to this letter, if you will allow me."

"What may it be?"

"You know your poor father's intense anxiety on a certain subject; may I assure him that your connexion with Ball is wholly at an end?"

"You may indeed! on my honor you may."

"And that you have never seen him, or written to him since that unfortunate quarrel?"

"You may tell him so with truth, and I shall be obliged to you for it."

"With *perfect* truth?"

"I declare before God, you may."

"That is a strong expression, especially from a lady's lips. Are you serious?"

"*I repeat in the presence of the Almighty, that I have never seen, or communicated with the man for the last three months. I hate and despise him!*"

"That is indeed a solemn oath—I cannot doubt it."

And I did not; but in her eagerness to dispel suspicions which she felt were too well founded, the unhappy woman a third time, with an impassioned energy that was almost terrific, reiterated the awful adjuration in still more emphatic terms!! I could not discredit her, and was convinced that I had been misled by some singular coincidence of name.

"I rejoice," I said, "that I have asked you; here is some strange mistake that ought, for your own sake, to be cleared up, and (producing the card) we must find out to whom this belongs; I got it at Tetsworth."

Never, to my dying hour, can I forget the scene that followed! No sooner did the miserable woman see the card, than she uttered a

maniac shriek, gazed at me with a wild and vacant look, and fell senseless in my arms! It was no affectation. Shame, terror, and remorse, gave dreadful sincerity to the scene. I dared not call for help, lest in the first return of consciousness her feelings should betray her to third parties. A glass of water that I threw suddenly on her face, recalled her to life, and though she continued hysterical for some time, she rallied with a facility that astonished me. She now confessed the assignation, and much more of deeper guilt than I desired to hear, but her openness now would not be restrained; it was as if it comforted her thus to atone for her late duplicity. In concert with her father, I easily succeeded in breaking off that connexion; indeed so easily, that it was clear, if affection ever had existed, it was for ever gone; we even saved her from exposure, but I fear that we wholly failed in restoring her to a better path, for as it afterwards appeared, this had not been her first, nor even her second deviation from it. Yet she was young—fair as an angel from heaven, and her lovely features seemed stamped with the expression of truth itself. Years have rolled over since that mel-

ancholy scene, and I have seen her but once since it occurred; that once was sufficient; she is still young, but all her beauty is gone!

We cannot be too guarded in the confidence we repose in female testimony, or too pointed in our preliminary examinations. Miss Stanton was a young lady of eighteen, who had certainly been very ill-used by a thoughtless coxcomb, a clergyman of six-and-twenty: like many rascals of the same species, he had won the girl's affections, and breaking off his acquaintance with her, traduced her character as an excuse for his heartless caprice. Her parents, most unwisely in my opinion, brought an action for the breach of promise. To prove the promise, we were to call the sister, exactly a year younger than herself. I was assured by the father and mother, that her evidence would be quite satisfactory, but she was very reluctant to be examined by me; for this very reason I resolved to interrogate her closely. She came to my office accompanied by her mother.

"Well, Miss Stanton, you were a good deal in your sister's confidence?"

"No, sir," playing with a reticule, and looking sheepishly on the ground.

"You were aware of her intimacy with Thornhill?"

"No, Sir," taking her handkerchief out of the said reticule, and unconsciously replacing it.

"I believe you have seen them often together?"

"Sometimes, Sir." She had now tied the strings into a complicated knot, and was intently engaged in untying it.

"Attend to me, my dear young lady; I am speaking of important matters."

"Oh, la! Sir, what do you mean? I know nothing about it, I'm sure; do I, Ma?"

"Never mind your Mamma, my dear, but just answer my questions."

"You had better ask my sister herself, Sir; she can tell you all about it, I suppose."

"No doubt; but she can't speak for herself, you know."

"Indeed she can, Sir; she's never much at a loss."

"Well; at present she is not here, so I would rather hear you."

"Oh! Ma can bring her to-morrow; won't you, Ma?" and here the little fool again took out her handkerchief, and affected to wipe her eyes.

"She is very nervous, Mr. Sharpe; she is easily excited, poor thing; and she feels very deeply for her sister; we had better defer it to another day, Sir."

"There is no time like the present, Mrs. Stanton; I think she will be more at her ease if you will leave her alone with me for five minutes."

"Don't go, Ma! pray don't leave me, Ma!" sobbed out the simpleton. "I'm sure I know nothing at all about it; pray don't go, Ma!"

However, as Ma! was still coaxing, and caressing, and consoling her, I saw she would only make matters worse, so I insisted on having a tete-a-tete, and prevailed on the old lady to withdraw into the next room. As soon as she was gone, I changed my mode of attack.

"Now, Mary, tell me all about it."

"Well, where am I to begin?" she asked, promptly responding to the tone of levity in which I addressed her.

"Where you please, my dear."

"Oh dear, Mr. Sharpe! you are so funny; but I'll tell you all I know, only don't tell Pa or Ma: promise me that, won't you? I won't say a word if you don't! I won't indeed."

"Never fear; you are quite safe."

"Well, then, you must know that Mr. Thornhill, — but is that door shut?" and she rose from her chair to examine it, and then listened to try if she could overhear anything: having satisfied herself on this point, she resumed her seat, again had recourse to her reticule, tied and untied the knot, and then began a second time,

"But do you want to hear about Mr. Thornhill, or Anne?"

"Tell your story your own way, Mary."

"Don't you think Mr. Thornhill is a very nice man, Mr. Sharpe?"

I stared at her, wholly unable to guess where this was to end, and made no answer, lest I should provoke her to draw back.

"Well, I see you don't like him any more than the rest; but he certainly is very handsome, and dresses very well."

"When did you first become acquainted with him?"

"Oh! you know he was paying his addresses to Anne when I came home from school."

"What did he say to her?"

"I really don't know, I never attended to him, till one day he took me on his knee, and asked me how I liked him."

"What! did he pay his addresses to you too?"

"La! no, not then; he was all after Anne, at that time."

"And how far did he go with you?"

"That's not fair, Mr. Sharpe; I ought not to tell you *that*; you shouldn't ask me."

"I don't want to pry into your secrets, but I suppose he kissed you now and then?"

"Hush, hush, Mr. Sharpe! Ma will hear you;" running to the door to see that it was still closed.

"And he quarrelled with Anne on your account, didn't he?"

"Well, if he did, it was not my fault, nor his either! Anne was so cross with him."

"When did you last hear from him?"

"Who told you that he wrote to me? I must have dropped the letter!" opening and searching her reticule with obvious alarm; "oh no! here it is, all safe," returning a letter into the bag, "but you promised me you would not tell Ma."

Such was the innocent young lady on whom the anxious parents relied, to sustain the character of her deserted sister! of course the

action was abandoned, and about twelve months after, the little coquette eloped with the reverend Lothario.

CHAPTER XVIII.

"Crede ratem ventis, animum ne crede puellis."—Ovid.

There is this marked distinction to be observed in the management of children, and female witnesses,—the former cannot be examined too lightly; the latter must be probed to the bottom. The child must be reminded of time, place, and circumstance, and these facts may be impressed on the recollection, by quietly collating them with holidays, birthdays, sight-seeing, or any other incidents dear to infantine memory; but there our duty ends: every word said to a witness under fourteen, and sometimes much above that age, that tends to open his understanding to the direct or collateral importance of a given fact, tends to alarm, and by alarming, to confuse or embarrass him; not that he seeks to trim his evidence, but that he fears the consequences of it,

and thus takes elaborate pains to correct, when if he spoke fearlessly, he would be naturally correct without exertion. Whichever way he may betray anxiety, whether for or against the party calling him, it tells equally in favor of an opponent; for counsel will always, with an ingenuity that though professional is malevolent, ascribe embarrassment to the shame of conscious disingenuousness. Juries are not yet sufficiently enlightened, and I suspect never will be, to detect the artifices of counsel, before they leave the jury-box. An infant witness may, and often does, fall short of the mark, but that is comparatively immaterial, so long as he is not embarrassed in what he does say; he never will prove himself embarrassed, though he may be disconcerted, merely by the roughness of cross-examination. I have seen a child so frightened by it as to burst into tears, and this tells as well as a woman's pretty face, if the evidence in chief has been consistent and straight-forward: but embarrassment is the inevitable result of any previous preparation, however honestly intended; such as "mind you don't forget this," or, "be sure you speak out, and tell every thing you heard," etc. In a

word, a child is the best, or the most dangerous witness you can call.

Women however, of whatever age, demand the most sedulous attention, before you can rely on the evidence they profess to give; the anecdotes that I have just mentioned show this, but as they relate to artful females, and in the first case to an unprincipled one, they are not characteristic of the sex, it may be hoped. I will give another example.

I had occasion to prove the due execution of a will to pass real estate, in a cause in which I was concerned for a devisee against the heir-at-law. My client's title was not altogether devoid of suspicion, and of course I was the more anxious about the consistency of the attesting witnesses: one of them was a young woman of six-and-twenty; very intelligent, and remarkably prepossessing in her appearance, as well as decidedly above her class in point of manners and address. She had attested the will as Margaret Connor. When I required her evidence, she had become Mrs. M'Carthy: at the execution of the will she was a domestic in the family. A few days before the trial I sent for her to my office.

"I believe, Mrs. M'Carthy, you are aware of my object in sending for you?"

"It is about Mr. Brook's will I believe, Sir."

"Yes: do you recollect the circumstances of his death?"

"Perfectly, Sir: I was in the house at the time, and lived in the family for three years before he died."

"How long before his death did he make this will?"

"About six weeks."

"And the codicil?"

"Only a few days: I think less than a week."

"I see you attested both; who asked you to witness them?"

"Mr. Brook."

"Where did he execute them?"

"He executed the will in the drawing-room, while lying on the sofa: the codicil in his bed, where he died."

"And the other witnesses were present?"

"Oh yes, Sir; they were drinking tea together the first time: they sent for me the second."

Nothing could be more certain or satisfactory: I made a note of her evidence, and desired her to call on me again the day before

the trial: she came, however, the following morning.

"I have been thinking over it, Mr. Sharpe, and I believe I was not quite right."

"In what respect?"

"They were not drinking tea, Sir, when I attested the will."

"Well, that is not material; you are sure, I suppose, that you were all together?"

"Yes, Sir, I am sure of that; but I don't know that we were in the drawing-room."

"Where else might it have been?"

"Perhaps in the dining-room."

"That's of no consequence, if you are right on other points; think over it all, and see me again to-morrow."

This was a little annoying, especially as I had no opportunity of checking her by comparing notes with the other witnesses, one of whom was dead, and the other had married the widow whose interest it was to support the will; but the next day matters looked still worse. She came in apparently under some excitement:

"I am sure, Mr. Sharpe, you had better not examine me."

"I can't do without you, but what is the matter now?"

"I've thought over it a good deal, Sir, and the more I think, the less I can make of it; I can't be of any use."

"You don't doubt your own writing, surely! look at the will again."

"Oh, I'm quite sure of all that, but I can't tell who was present; I wish you could do without me."

"But you say in your attestation, that you signed in each other's presence; you would hardly sign your name to a positive falsehood!"

"I hope not, Sir; but I wish you would excuse me; I'm sure I shall do you no good."

"I must take my chance of that."

The chance, however, seemed but a poor one; still I did not despair; I suspected that she had some secret motive for wishing to avoid examination, and I was bent on finding it out. My ingenuity was racked in vain; she utterly disdained all motive but a doubt as to the particular circumstances that had occurred at the time, and as I could not dispense with her, I gave myself no further trouble about it: the next day she was called and gave her evidence clearly and

decidedly. the cross-examination elicited the secret.

"What are you, Mrs. Dennis M'Carthy?"

"The wife of Mr. Dennis M'Carthy."

"What is he?"

"A lawyer's clerk, but an honest man notwithstanding!" with a little premature irritability, for a woman under cross-examination always bristles up like a porcupine at the approach of any noxious animal; she knows not how little avails the wrath of man, woman, or porcupine against forensic assurance.

"No doubt of it, Mrs. M'Carthy; and I dare say you are an honest woman too. (Here she blushed and looked down, a show of emotion that did not escape unnoticed, as the next question proved.) In what capacity did you live with Mr. Brook?"

"I acted as — nurse," (with hesitation).

"Was that all?"

"I assisted Mrs. Brook."

"In what way?"

"She was often an invalid, and — and — I used to act for her."

"How?"

"In her household—duties," (still hesitating.)

"All her duties, Mrs. M'Carthy?" laying a scarcely perceptible emphasis on the word 'all.' This was too much for Mrs. M'Carthy's patience; she flared up, to use an expressive phrase almost grown obsolete, and pettishly declared that "she did not understand the question."

"Oh yes you do, Mrs. M'Carthy: I mean all her *conjugal* duties?"

"I won't answer you: you are no gentleman I am sure, though you are a lawyer! I won't answer another word."

"Don't be angry, Mrs. M'Carthy, I will trouble you no more," glancing expressively at the jury. I fear the insinuation was too well founded; fortunately for me I was able to confirm her testimony as to the presence of all parties by the medical man who had attended the testator daily, and chanced to be in the room at the execution both of the will and codicil, having in fact suggested the propriety of not deferring the duty: but for this circumstance I should have broken down upon the attestation, simply because I had not the penetration to detect the cause of the witness's reluctance, and prepare her to meet the exposure, if I failed in averting it by appealing to the humanity of our opponents.

But certainly of all the variety of duties imposed on us by our peculiar occupation, there is not one more difficult to perform, or that requires more delicacy of address, than to measure the extent to which a female may be prudently exposed to the fire of a cross-examination. I never yet found a woman, young or old, silly or sensible, plebeian or patrician, that could stand it, or that did not make a fool of herself if she failed in making one of me. The case must be desperate indeed where the attorney has no help for it but in the straight-forward evidence of a woman: should he unhappily find himself in such a strait, the wisest thing he can do is to let her tell her story in her own way; and tell it only once for all: if she is good-looking it may pass; if not, she must be taught an hysteric fit at the right moment, and this may perchance save him.

CHAPTER XIX.

"Non datur ac veras audire et reddere voces."—ÆN. I.

WITNESSES of our own sex are a more practicable race, but there are still very few who can be trusted without some drilling: witnesses are like the muscles of the body, voluntary and involuntary in their action; but with this difference; your voluntary witness cannot be restrained, your involuntary witness never acts spontaneously. A voluntary witness enters into the matter with all the zeal of a partisan; so much so that we begin to fancy we have made a mistake in the parties, and that the witness ought to have been the plaintiff; with professional slang, he adopts the first person plural, "We have been very ill treated, Mr. Sharpe: we owe it to the public to take the opinion of a jury," nor will any quiet intima-

tion of mistake serve to rescue him from this confusion of personal identity.

A fraudulent misrepresentation of profits was the ground of action; I was examining an accountant who had been employed by my client on negotiating the purchase.

"Did the defendant fairly expose his books?"

"I cannot complain of him on that score, Mr. Sharpe."

"Then how came you to be deceived?"

"Deceived! I never am deceived, Sir; I should like to see the man who can deceive me, give me his bill-book, his cash-book, his pass-book, his day-book, and his ledger! but we are the victims of fraud, Sir! we are all liable to be cheated, Sir! we have been shamefully cheated—swindled—regularly done in this case."

"I incline to agree with you, but how do you make it appear?"

"Appear! it is as clear as the day: we found he kept two accounts, Sir! two bill-books, Sir! two waste-books, Sir! but we will expose him: our character is at stake!"

My accountant-witness exposed his own ignorance when he came to be examined, but he left the defendant intact. I have a great

antipathy to all voluntary witnesses; one of the involuntary class is worth a score of them, if he has any pretension to principle or character: their drawback, however, is a very heavy one; you cannot guess, except so far as you can safely confide in your client's story, whether he is safely producible. It occurred to me to examine a man as a witness in that most difficult of all causes, an action for a fraudulent representation of character, whereby credit was obtained; the witness was a mutual friend, but more inclined to save the defendant than assist the plaintiff; he was a man of principle nevertheless.

"I understand, Mr. Thomson, that you reported to my client the opinion that the defendant entertained of the bankrupt?"

"I can't say I made any report, Sir."

"But you stated that the defendant had large dealings on credit with him?"

"I never spoke of large dealings with anybody."

"He did deal on credit with him, however?"

"He may have done so, Sir."

"Did he not tell you so?"

"He may or he may not."

"You were requested to make the inquiry of him?"

"Yes: I can't deny that."

"And you told him that my client had asked you?"

"I believe I did."

"What answer did he give you?"

"I can not recall his exact words."

"Well: what answer did you take back to my client?"

"I suppose he has told you, Mr. Sharpe?"

"Yes; but I wish to know what *you* can tell me."

"You'll hear it all when I am examined in court."

"How can I judge of the prudence of examining you in court, if you will not tell me what you have to say?"

"I shall speak the truth, Sir."

"No doubt of it; but what *is* the truth of the case?"

"Excuse me, Sir; I don't like to tell the same story half-a-dozen times; I shall tell it when I am in the witness-box."

"Did you make any memorandum of your conversation?"

"Perhaps I may; I decline saying anything at present."

"My client's goods found their way into the defendant's possession, I believe?"

"Possibly; the defendant dealt with the bankrupt."

"Don't you know that they did?"

"I am not obliged to tell you the extent of my knowledge, Mr. Sharpe?"

"In fair dealing, I think you are."

"I cannot agree with you, Sir; I wish you good morning."

And he walked off. I was left to decide for myself, whether on this equivocal evidence, but partially disclosing a tenth part of the merits, it was prudent to proceed. I thought not; my client understood the man better, and trusted him; nor was he disappointed. In the witness-box he bore out the case to its full extent, though by his ill-timed reserve he had nearly crowned with success the fraud practiced on an innocent man. These pig-headed block-heads are the most dangerous of involuntary witnesses; we can only rely on them so far as we have confidence in the instructions we have received, and in the respect which we may

assume that they will pay to their oath: but if we can rely on them, they are the best.

A witness requires to be studied with close attention, and the opportunity of studying him is best obtained by quietly leaving him to speak for himself, unless it appear that he is deterred by bashfulness or timidity. I have usually found that men are more communicative when they can be prevailed upon to call on me, than when I call on them. In the latter case they are on their guard; they are afraid of committing themselves, and take refuge in cautious silence; in the former, they are compelled to open the occasion of their visit by way of self-introduction, and they gradually, and almost unconsciously, slide into full conversation. An attorney must be a very dull fellow, who after an interview of half-an-hour, cannot form a fair opinion of the safety, as well as the value of a witness, in any ordinary case. His policy is to draw him out without letting it appear that he does so; for such is our bad odor, that no sooner does a man suspect that we are observing him, than he draws in his horns, and shrinks back into the very inmost recesses of his shell. At one time I made it a habit to

take out ink and paper, and reduce at once to writing all that my witnesses stated, while they were still with me; sometimes I do it still, and where it can be effected without exciting alarm, it is a useful practice; but I was cured of it as a habit by more than one instance of the following kind:

"Bless me, Mr. Sharpe, what are you doing there?"

"Only making a minute of your evidence for counsel."

"Minute of my evidence! I won't agree to that!"

"Why not? you can't think that I can remember all we have been saying?"

"I can't help that; I'm not going to swear in black and white; I have told you the truth, but I'm not going to be taken down."

"Will you write it yourself?"

"No indeed! I may have made a thousand mistakes; I'll do no such thing."

"Come, now, be reasonable; what is the use of your telling me all this, if it is to go no further? and how can I make use of it, if I am not at liberty to take notes of it?"

"That's your affair, not mine; I have noth-

ing to do with it. Give me that paper, or I'll not say another word."

And I have been obliged to surrender my memorandums as a peace-offering, to secure further communication! All this is prodigiously absurd, but it is our lot to deal with the absurdities not less than with the passions of mankind.

I have observed that children should never be instructed as to the value of their evidence; and as a general maxim it applies to adults, more especially if they are of the class voluntary; not that witnesses of this stamp are prone, as in the case of children, to become embarrassed and confused, but because such tuition leads to a very kindred, and yet more mischievous fault. As soon as their cross-examination begins, they are sure to assume an attitude of self-defense; while counsel is amusing them with pointless questions, they indulge in pert and flippant rejoinders, and this of itself will prejudice a jury, unless accompanied with a power of witty repartee that rarely falls to the lot of man. When however, the cross-examination approaches the point which they have been taught to feel of importance, flip-

pancy changes into sudden reserve, and the prejudice of the jury settles into confirmed distrust. I never indulge the self-complacency of a voluntary witness, and the more important I feel his evidence to be, the more indifference I show about it, till I succeed in bringing him down to a very diluted strength. I have been obliged sometimes to go so far as to intimate considerable doubt if he would be wanted at all; this often produces that humble frame of mind, which is the best of all preparatives for the witness-box where a witness is not cursed with too much sensibility of nerve

There are some precautions that are requisite with witnesses of every class; the very utmost patience must be exhibited in our intercourse with them, let them take what time they like to tell their story, and digress from it as often, and in what direction they please: never pin them down to accuracy or consistency till they have had their say out. To irritate a witness is death to a cause; and of all sources of irritation, interruption is the surest, especially to a garrulous or prosing man: moreover, in telling a story their own way, witnesses will often let facts of real importance escape them, which you would

never elicit by the most keen interrogation. I have usually found that dull or illiterate men will begin their statement with some rigmarole of antediluvian date, in nowise connected with the subject-matter of the cause, except through some ingeniously twisted association of their own fancy; they then skip over every intermediate occurrence till they come to facts, most deeply impressed on their memory, because the most recent; this is invariably the case in all matters relating to domestic or family disputes; in all affairs where the scene of action has been partly abroad; and above all in complicated cases of justified libel, or of intricate pecuniary accounts. Hence, after the first conversation, the attorney finds himself involved in a jumble of detail, which no ingenuity can unravel or simplify. To correct this desultory style, it is judicious to note down half-a-dozen dates of the principal events, and entice the witness into a recapitulation of his narrative, checking and recalling him to the periods which you have noted. By thus introducing a chronological principle of arrangement, without appearing to tie him down to it, a clear and connected tale may often be deduced from a mass of chaotic

confusion. Where several witnesses are necessary to complete a long chain of evidence, this precaution is doubly requisite, for if they are confronted, and are not equally clear and precise, they will inevitably contradict each other on some important date or occurrence, and by argument and discussion will each provoke the other into bigoted adherence to his own recollection; it then becomes a point of honor, or at least of temper, (often the same thing,) to withhold the least concession of error. It is most dangerous at any time to hold a convocation of witnesses, till by separate examination we have arrived at a straight-forward and consistent story; when once this is attained, it is convenient to assemble them, as you can at once reconcile any petty and seeming inconsistencies to their own satisfaction, and this is of the last consequence if you anticipate the necessity of excluding an opponent's witnesses, (and of course, therefore, your own,) pending the progress of the trial.

CHAPTER XX.

"Ut tantum facimus non in æquitate defensionis, sed in una littera latuisse videatur?"—Cic. pro A. Cæcin.

Another precaution that can never be safely omitted, and at which I have already glanced, is to make witnesses produce every letter or memorandum which they can recollect writing or receiving, respecting the matters at issue: an attorney should never be taken by surprise, by the sudden development of any writing of importance; his safest course is always to ask for all correspondence, and to read all, when it is produced; for one letter will often give notice of another. I can mention two incidents of a very curious character that will illustrate the infinite value of documentary evidence, though apparently of the most trivial description: I received one of them from a civilian of high rank, and well-merited professional distinction.

Property to an immense amount depended on the legitimacy of an ancestor whose parents were supposed to have been married in the year 1730. The system of registration, either of birth or marriage, was then scarcely known, or at least very imperfectly practiced; the period of the ancestor's birth, however, had been ascertained with accuracy, and this eventually led to the discovery of the registration of his parents' marriage; but to the dismay of the attorney, it appeared that the marriage was registered some months after the birth. There was every reason to believe that the register was inaccurate; the rank and character of the parties, and the long-recognized claims of the heir, combined to negative the supposition that his legitimacy could have thus easily been challenged at the very period of his birth, and yet have so long remained doubtful: but argument avails but little against positive record, and the attorney was alarmed at the prospect. He hurried to his counsel, to announce the discovery he had made; they felt the difficulty, but the case was too serious to be abandoned without a further effort, and the register might possibly be inaccurate: he was recommended

to institute diligent inquiry for the representatives of the clergyman who had solemnized the marriage, as it was probable that he had been personally acquainted with the parties, and it was possible that his papers might, if found, open new channels of intelligence; the attorney started on this voyage of discovery, founded like that to the North Pole, on possibility within possibility! He succeeded in finding the representatives of the clergyman in some of his great-grandchildren, who liberally opened their family archives to his researches. Among other venerable relics of antiquity was a trunk of papers, and half-sorted correspondence. Hour after hour, and day after day, were spent in unfolding and perusing it; eventually his perseverance was rewarded; he found a letter of invitation to the reverend divine, requesting the honor of his company to the nuptial feast, and a memorandum of the ceremony indorsed upon it, in the same handwriting with the register! That memorandum bore date, as did the letter itself, exactly a year before the ancestor's birth, and fifteen months prior to the registration of the marriage.

The other instance to which I have referred,

occurred personally to myself, and is therefore far more interesting to me, and likely, perhaps to be more instructive to my readers. I was placed in the very painful position of being obliged to prove that a deed which had been prepared and executed in my office, was only delivered as an *escrow*, till the investigation of a title had been completed. It was contended on the other side, that it had been executed unconditionally, all objections to the title having been waived; the action was brought under very special circumstances, to recover the purchase-money from my clients, who were the purchasers; the deed had been executed during my absence from London; a fact that I could not doubt, inasmuch as it bore date in the first week of September, being a week that I never remember to have spent within the region of Cockaigne; but it was above two years after the date of it, that I was called to swear to the fact, and I could obtain no evidence but my own to sustain my alibi. Meanwhile I was opposed (not in a professional sense, for the plaintiff's attorney was a very respectable man, though misled as to the merits of his case,) to two of the greatest villains that ever adorned our honorable profession, and I

knew that it was intended by these fellows to swear that they had *seen me* personally *at my office*, on the occasion of the deed being executed, and that I had then consented to complete the purchase. I have been satisfied by subsequent events, that this intended defense was *kindly* intimated to me to intimidate me from entering the witness-box! The plaintiff was a worthy alderman, whose blundering stupidity is the best pledge that he was no party to the iniquitous scheme. The hint thus given to me of the intended line of defense, had certainly the effect of annoying me as much as malice could desire, for it was tantamount to telling me that if I swore to what I knew to be the truth, I should be visited with an indictment for perjury! They little knew me, however, when they hoped thereby to deter me from a strict professional duty. After perplexing myself in vain to think of corroborative evidence, it flashed across my mind that being out of town at the time, and of course obliged daily to write to my managing clerk on matters of business, he might possibly have retained some of my letters, though it was not his habit to preserve them. Laborious indeed was the search I made, but all in vain! it

was the eve of trial, and having spent days in turning over every bundle of papers relating to business then in hand, all to no purpose, I resolved to meet my fate with the best face I could, and trust to heaven for the rest. I had returned from our final consultation at a late hour, hopeless almost of escape, when my clerk met me with exultation in his features, holding in his hand the envelope of a letter, addressed in my writing to himself, and bearing a provincial postmark fifty miles from London, of the very date of the deed in question! Here was conclusive evidence of my accuracy, and my alibi. I gave my testimony with comfortable coolness, and no contradiction was even offered! The envelope had been used to wrap up a pill-box, which he had fumbled out of his drawer, after the twentieth ejectment of all its contents in fruitless search! It is worth remarking, though foreign to the immediate subject, that it afterwards appeared that the professional swindlers who had meditated this diabolical scheme, had forged all the deeds on which the title depended, and but for a trifling circumstance, that awakened my suspicion of fraud, though I never dreamt of the extent of

it, my clients would have completed their purchase, and lost three thousand pounds: it was in pursuance of their fraud that they had prevailed on my clerk, during my absence, to consent to the execution of the deed "without prejudice;" but it would take too long, and be profitless to boot, to explain the whole of this infamous conspiracy, though I afterwards traced to the pen of one of the party, anonymous letters on the evidence of which he might, at that time, have been hanged; and would have been, but for the forbearance of my generous client. I would rather fight the devil under the gallows for a gibbeted thief, than get involved in personal controversy with an unprincipled attorney! it is but one degree better to be his client.

I have dwelt at considerable length on the examination of evidence, because it is the most important of all duties that fall to the lot of the attorney, and it is the only one in which he can derive no assistance from the superior information of counsel: indeed, I have generally found counsel more unskillful in the *private* examination of witnesses, than ourselves. I should not exhaust the subject, if I were to write a folio,

nor should I succeed in the instruction of my reader, if I could find one with patience to read the said folio, for it is entirely a matter of tact and address to extract a witness's knowledge, without alarming him on the one hand, or tutoring him on the other: I cannot however quit the topic without another remark or two that may assist in acquiring this tact. Where witnesses are inclined to open at all, they are far more communicative at the first interview than they ever are afterwards; the private meditation that follows the first discussion of the subject with the attorney is by no means conducive to frankness on a second examination: the examinant begins to reflect more seriously on the case than he did before; conscience suggests a doubt (I am only speaking of honest witnesses, such as an honest attorney may call,) whether he may not have exaggerated a little, and given an unfair color to the facts: whether he may not, from the wish to oblige a friend, have spoken with prejudice; or if free from prejudice, whether he has not been somewhat hasty and thoughtless in his statements: when reflections like these begin to haunt his mind, a re-action takes place; on his second

visit he doubts; he is "not quite sure"—"he would be sorry to speak unfairly"—"an oath is a serious matter:" and then he qualifies, and modifies, and neutralizes, till he gets bewildered in scruples of his own creation, and ends by retracting every word he has previously uttered, falling into the natural error of saying too little to avoid the danger of saying too much. I have known many a witness to whom "the truth" was an intelligible part of the oath, but who found "the whole truth and nothing but the truth," absolutely incomprehensible; as indeed they are to common sense, if "the truth" has any meaning at all. It is important to detect this infirmity in a witness at our first introduction to him, if possible; but if we cannot do this, it is prudent to assume that he is subject to it, and on this assumption to get all out of him that we can, without subjecting him to a second ordeal: we may generally trust to such a witness to confirm on oath, substantially at least, whatever he has first stated; but to prevent disappointment to counsel on examining him in court, in this and perhaps in every case, it is most prudent in narrating his expected evidence in the brief, to refrain from

giving it in any stronger or more decided terms than we have ourselves received it in from his lips; and if we must err, to err on the side of moderation and distrust. Akin to this suggestion is another, which obvious as it is, is too frequently neglected in practice; never to postpone the examination of the witnesses till the eve of trial: most men are content to take their client's word for the facts, and bring or defend the action without further precaution: this is all very well, if the main object is to secure costs in any event: but if the desire is what it ought to be, to avoid litigation, wherever facts only are disputed, and the law is clear, then the attorney's first duty is to check his client's accuracy, by catechising his witnesses before costs are incurred, and while the circumstances are yet recent in their memory.

Some of the adventures before narrated, fully bear out the wisdom of this policy, but it is well worth pointed repetition.

CHAPTER XXI.

"Le vrai n'est pas toujours le vraisemblable."
ROCHEFOUCAULT.

WHILE I have learnt to be very scrupulous in receiving for gospel, what even the most honest and well-meaning witnesses may tell me, I have acquired another lesson not less important to professional men: never to refuse credit to a story, merely because it is opposed to all probability, or at variance with the ordinary motives and conduct of mankind, or with the apparent station or reputation of the parties whom it involves. I have met with some cases so extraordinary in their nature, that they seemed to require almost mathematical demonstration to convince one of their truth: and yet when I have afterwards become familiar with the private history of the parties, that demonstration has been supplied by irresistible moral evidence. Some of these cases are so peculiar, that I dare

not mention them, because no disguise of name, date, or circumstance, could prevent recognition of the individuals. I can illustrate my meaning however, by two or three, in which I have reason to believe that all the principal actors have long since quitted the stage of life, without leaving any surviving relations so near in blood, that their feelings will be wounded by the exposure, even if they should identify the anecdote. I was once consulted by a gentleman about thirty years of age, a very accomplished man, and remarkably gifted with those attractions that usually win the affections of a woman, upon his defense in a threatened action for criminal conversation. He was not only a client, but an intimate friend, and he wanted my advice more in the latter character than as his solicitor. I of course inquired into the foundation for the charge, and he absolutely denied that any existed, or could by possibility exist; he pledged me his honor most solemnly to the truth of his denial, but with so much agitation of manner, and apparent distress of mind, that I doubted him, for he was by no means a man to be alarmed at trifles. I urged upon him the folly of such anxiety, if he was

conscious that the action could not be sustained, and put it to his good sense to set the menace of it at defiance. He declared this to be out of the question, and to satisfy me that it was so, he acknowledged to a score of acts of such a nature that any one of them would have been more than sufficient to convince the most indulgent or most sceptical jury that ever tried an issue. I inquired into the extent to which the husband might be presumed to be acquainted with the conduct of his wife, and found that she had herself, unknown to her lover, confessed their correspondence, and exhibited his letters! He showed me extracts from some of those letters that he chanced to have retained, and they were so expressed that they left no doubt of his guilt, even on my mind, though his partial friend. I advised an attempt at compromise, and we effected it at a cost of three hundred pounds. I saw the woman in the course of the negotiation, and certainly, if extreme beauty and the most engaging manners could have extenuated my friend's fault, he had every apology. He was, notwithstanding this affair, a man of high-toned feeling, and even principle. Some years

afterwards he offered his hand to a lady, but in doing so he felt it incumbent on him to disclose these circumstances. Her father called on me for a confirmation of the story, and I thought it right to explain it fully, though I did not feel it necessary to express my utter disbelief of my friend's protestations of actual innocence: his offer, however, was rejected, and he afterwards found reason to congratulate himself on his failure. The husband died about a year after this disappointment, and partly from lingering affection perhaps, partly to do justice as he supposed to the woman whose reputation he had injured, he resolved to marry the widow, and disclosed his intentions to me. I entreated him to be cautious, and to allow me to inquire a little into her conduct since the compromise; he followed my advice, and I pursued the inquiry with diligence; for, in fact, though I never doubted my friend's criminality, I had always suspected that her spontaneous discovery of their correspondence proceeded from any feeling but remorse. The death of the husband opened many mouths that had before been closed, and the tenor of his will led to a perfect development of the whole iniquity. I

found in the surgeon who had attended him in his last illness, and was also the medical adviser of the wife, a fellow student and old acquaintance in the hospitals, and he told me all. My friend had been the victim, and not the first nor the second victim, of an infamous conspiracy between the husband and wife, a conspiracy by which the conjugal feelings could never by possibility be outraged, because that outrage could *never by possibility* be effected! The unnatural and debased creature soon followed her husband to the grave, though she maintained to the last a *quasi* reputation that obtained her the frequent opportunity of practising her arts on other dupes. Could I have believed my unlucky friend's assertions in the teeth of all probability, I might have saved his money, and soothed his wounded feelings, by converting them into indignation.

Another case of a very similar description, occurred in the person of a young man that I knew at Cambridge, and who afterwards resided in one of the inns of court, as a law student. It is only so far in point as it tends to establish my position, that the improbability of finding extreme depravity in one not previously even

the object of suspicion, is no conclusive argument for disbelieving it. He too was a gentleman combining great personal attraction with large mental endowments, and even at an early age, he acquired no inconsiderable distinction in the world; but he was a man of more than the usual share of romance, and thus peculiarly fitted to be the dupe of female artifice. He had scarcely left Cambridge, when he became introduced to one of those minor circles which dub themselves fashionable, because they have acquired the ease and style of high-bred folly, however far removed by birth from the patrician class; in truth, in these modern days of liberality, there are but two fashionable classes of society, however those classes may be subdivided: the men of academic education form the one; the educated *by hook or by crook*, form the other: now and then they interlace with each other, but still the line of demarcation is broadly marked; the superior class branch out in manifold directions, and according to taste or circumstance, associate themselves with a political, a scientific, a professional, or a literary *coterie*; the half-educated aspire to the same elevation, and occasionally attain it; the large herd of

intermediate talent, who have no intellectual pretension to rank in any particular study, are hangers-on in the set they happen to fancy, and make up for learned deficiency, by boldly asserting the exclusiveness of their peculiar circle; men, like these, form the bulk of the fashionable world; whether that world rolls along in the coroneted carriage through the streets and squares of aristocracy, or crowds the scientific hall, or lounges in the library chair of the club-room, or with more humility of aspiration, retails the gossip of the House over the good things of a Civic table, or speculates in Russell square on the prospects of the leader on the circuit, such is the *materiel* of which it is composed. Should one of these intermediate men chance to be a novelist, a dramatist, or a successful pamphleteer, he becomes the temporary nucleus of a petty circle of his own, in which he lionizes with success. If moreover, he can dexterously render fashionable folly subservient to his pocket, not only is his fortune made, but even character becomes superfluous in the *eclat* of his *brilliant* career.

I have digressed from my subject, but I wished to explain accurately the set to which

Captain Wilson belonged, in whose drawing-room my friend Stanfield soon found himself a welcome guest. Captain Wilson was a man of fashion, *bien distingue*, kept a good table, and what is of equal consequence, a very pretty wife. Where he found her, or how he won her, were mysteries that concerned nobody but himself. She was younger by several years than he was, but there was no such disparity of age as made their union farcical. Stanfield possessed two accomplishments of no very singular merit, that nevertheless tell well with most females: he rode gallantly, and he was devoted to music — in this respect, and perhaps in some others, he resembled Alfieri. He had not long frequented Captain Wilson's drawing-room, before he found that play was deep and frequent; but his tastes were altogether foreign to such amusement, and he rarely joined the card-table. Captain Wilson was not himself often at home, and his absence from the ordinary pursuits of the evening passed unnoticed; except the daily and deep play which appeared to form the habitual resource of the hostess, there was nothing to excite suspicion, and as he was not pressed to join it, he troubled him-

self but little on the subject; such was the bland hospitality of Mrs. Wilson, that he speedily found himself at home, and such were her attractive manners, that he soon forgot he had a home elsewhere: his mornings were spent in riding with her in the parks, for she almost rivalled him in horsemanship; his evenings found him always at her piano, till the *post cœnam* card-table silenced harmony, and by forcing him into the irksome solitude of society, drove him for relief to the less annoying solitude of his chambers. The result was inevitable; his liaison with Mrs. Wilson slided gradually, almost imperceptibly into the usual character, and his happiness was as perfect as happiness could be, when founded on guilt, and hourly fearing detection. This dream continued for several months, when he began to feel that Mrs. Wilson's demeanor became more constrained, and her temper, hitherto gentle, and cheerfully uniform, exhibited a fickleness and irritability, that could only spring from jealousy or wearied affection: there was no decided quarrel, for his good humor and fondness allowed no opportunity; but he felt an increasing conviction that on her part, the opportu-

nity, whenever it arose, would be gladly hailed, and this led to suspicion, which a trivial circumstance confirmed into certainty. Under the pretext of avoiding remark, Mrs. Wilson had prevailed on him to intermit his evening visits, except at considerable intervals: but finding himself one evening, accidentally in her neighborhood, after dining out, and perceiving lights in the drawing-room, he forgot her injunctions, and called: the drawing-room, though lighted up as usual, was deserted, but the piano was open, and he approached it to amuse himself till she made her appearance; to his surprise he saw a flute accompaniment open on the desk, and on further scrutiny, discovered a flute behind it, concealed by some loose music. He made no comment, and the hour passed away as usual, only with somewhat unusual reserve on her part, almost amounting to that dignity of manner that implies between parties so circumstanced, either offense, or a strong inclination to give it, if occasion could be found. He took his leave of her with coolness, and she answered the salute with marked indifference. On passing through the hall, the servant picked up a glove from the floor, and

telling him that he had dropped it, gave it to him: he found that he had both his gloves in his hat, but concluding that he had inadvertently drawn it from his pocket, he placed it there, and sauntered home, gloomily meditating on the cause of this apparent estrangement: in answer to a careless inquiry, she had explained with equal carelessness of tone, that the flute belonged to a young relative of her husband, who had arrived from Cambridge that morning and had gone to the theatre; he was reflecting on the tone of this explanation, when he drew the glove from his pocket to restore it to its fellow, and he at once perceived, that though a man's glove, it did not belong to him; it could not be the Captain's, for he had been ordered to Ireland, and in consequence of his absence, Mrs. Wilson had long since suspended her card parties: the jealous distrust which now began to torture his mind, was wound up to the highest pitch the following morning, by receiving through her servant, a letter, not formal or ceremonious certainly, but with infinitely less than the accustomed endearments of expression, requesting the immediate return of *all* the music she had lent him, and sending

back several volumes of his that she had borrowed in exchange. Stanfield could not misunderstand the meaning of this, and was now only bent on discovering his successful rival; he might easily have elicited this from her servant, but he was too high-minded to stoop to such unworthy means, even under the excitement of wounded affection; he wrote to her in a tone of passionate remonstrance, but "acquiescing in what he construed to be her wish, an immediate and decided separation, if, as he had too much cause to fear, her affections were irrevocably gone:" he pinned this note into one of her music books, on the title page of one of her favorite songs, and which he well knew would be one of the first with which she would entertain her new admirer; the stratagem completely succeeded. The next morning brought him a visitor, in an old college acquaintance, whom he had himself introduced at Harley street only a month before; he was surprised, and not entirely pleased, with a call that he expected was one of curious, and perhaps ironical condolence, for his friend entered with a suppressed smile on his lips.

"Well, Thornhill, I little anticipated seeing

you ! I suppose you have heard of our quarrel ? these sort of tidings generally travel fast."

" I am your companion in exile, by my own choice ; did you write this letter ? " producing the billet of the previous day.

" Why, if I did, *you* have no right to ask me, I presume ? "

" Not yet, assuredly ; but had I not found it in the song - book last night, I should by this time have had as much right to open it, as you to send it ! "

" The devil you would ! then the flute was yours ? "

" Yes ; and the glove too. "

" And she found that I had got it, and so gave me my conge ? "

" Exactly so. "

" And you were not at the play ? "

" No : *perdu* in the next room. "

" Now tell me truly, my good fellow ; how far have matters gone ? "

" I'm on the right side ; your letter arrived in the nick of time to save me."

" Did you never suspect me ? "

" Never, on my honour ; or she might have laid her trap in vain."

This prompt and frank *eclaircissement* opened the eyes of both, but I must tell the melancholy catrastrophe, though I do it with pain.

I need scarcely say that this discovery of her character converted poor Stanfield's fondness into disgust, and his jealousy into indignant resentment; but he was a generous and warm-hearted man, warm-hearted in spite of his romance. He never revisited Harley street, nor even attempted indirectly to inform himself of the subsequent proceedings of the family: four or five years rolled away, and he had all but forgotten his once intimate connexion with it. The object of my work is not to moralize, and therefore I shall not discuss the morality of his conduct; but in this particular he certainly acted with a degree of prudence not very usual, and perhaps not very practicable with those who set morality at defiance when opposed to passion: his affection however had received a rude shock, and this happily combined with the wish to save Mrs. Wilson's character, which he sill believed to be unstained in the opinion of the world, to fortify his resolution never again to enter a circle which had well nigh proved fatal to all his worldly prospects. In this case,

as in the last, it was in consequence of a contemplated marriage, that I became intimately acquainted with the story: and that marriage was broken off by the vague and exaggerated reports that had obtained currency. It has been my destiny, I scarcely know why, to be the resource of all my college acquaintance when they have found themselves involved in difficulty, by these deviations from the straight path: few young men are sensible of the repugnance that is felt, even by those who are not particularly straight-laced, to the intimate approaches of those who labor under the obloquy of a relaxed morality. Stanfield, with more ingenuousness than sagacity, had disclosed to Thornhill the full extent of his entanglement, when he found that the discovery of the letter had partially betrayed the secret: and the latter, from pique perhaps at being so nearly duped, made no secret of the matter; hence it obtained for Stanfield an unfortunate celebrity of which he was unconscious, till his offer of marriage received from the lady's father a *point-blank* rejection, founded on his alleged seduction of Mrs. Wilson. It was in this dilemma that he asked my advice. I immediately set on foot

diligent inquiries about the Harley street *coterie*, but the career of all such parties is as brief as it is gay and dissipated: of the Wilsons I could learn nothing, except that he had sold out, and was extinct: some of their set were in the King's Bench—others abroad—a few had vanished entirely out of sight; the "wind had passed over them, and they were gone." I could not assist my friend, though I called on the father of his intended wife, and reported the result of my inquiries, urging upon him that it was severe to repudiate the alliance of a man, otherwise most estimable, because he had, while yet a youth, been victimized by a gaming and unprincipled set of fashionable sharpers. It was all in vain; the old gentleman retorted that their ruin might be the consequence of their connexion with Stanfield, and he was inexorable. He further assured me that his daughter herself fully acquiesced in the propriety of his decision, and I communicated this to Stanfield, for the chance of its reconciling him to his inevitable disappointment. At first he was cut to the heart, but he recovered the blow so rapidly, that I was surprised at his equanimity. It was about ten days after this

final rejection, that he called at my office, obviously laboring under much anxiety of mind, which I at first attributed to his altered prospects. He soon relieved my apprehensions on that score.

"I have not once thought of her for this week past."

"No! then what ails you?"

"I have found Sophia, or rather she has found me!"

"Confound the woman: I wish she was fairly hanged out of your way."

"Say that word again, Sir, and it is your last!"

And he rose from his seat with a look of frenzy that startled me, clenched his fist with such violence, that I at first thought he was going to strike me, and I retreated. "Stanfield," I exclaimed, "can this be possible?" The question was put mildly, but reproachfully, and it instantly restored him to his senses; he burst into tears, entreated my forgiveness, and in the same breath told me he wanted only my introduction to a physician of whom he had heard me speak highly. I gave him the address, which he took down in silence, and was going.

"Stay a moment, Stanfield, I guess your purpose; can I assist you?"

"She is dying! she will scarcely recollect you, but if you desire, come with me."

"For your own sake, I do desire it, but not from curiosity. I have none, except to hear how you happened to meet again so unexpectedly."

On our way he explained it all. A few days after I had reported to him the result of my interview with Mr. Fortescue, he had been summoned to the door of his chambers by a single knock, when he found it proceeded from a little dirty and half-dressed girl of fourteen, who put a soiled paper into his hands, folded up like a letter: at first he declined reading it, concluding that it was some begging petition, but the faithful messenger was not to be repulsed.

"The lady was sure you would not refuse her, Sir, if you knew how ill she was."

This appeal was sufficient for Stanfield, though he little imagined who "the lady" could be; the letter contained only a line, but though even that line was without a signature, Stanfield had not forgotten the beautiful writing of one that had once been so dear to him. "Come and

see me. I would not ask you, but I have not many hours to live," was all it said, and this was more than enough; he instantly accompanied the child.

It was in a back room, up two pair of stairs, in one of those dark and filthy streets adjoining Gray's Inn lane, that are too often stigmatized as dens of infamy, by those who forget that vice claims as near a kindred to wealth, as it does to poverty and distress, that Stanfield found the wretched woman who had once been the idol of his affections, and who was, still, more dear to him than he dared acknowledge even to himself. She was lying on a palliasse, scarcely covered by half a blanket, whose deficiencies were supplied by a rug which a dog might have scorned to touch. The weather was cold, but the rusty grate, half supplied with the usual complement of bars, showed no traces of fuel; a tattered remnant of a silk cloak, of those tawdry colors that indicate the wearer's class, was suspended before the broken window as a substitute for a curtain, and two gowns, equally characteristic, hung upon a solitary peg; other furniture there was none: on a paper-trunk, resting on its end to supply the place of a table, there stood a cup

of tea, cold and milkless, a slice of bread and butter untouched, and a saucer tilted on one side, to hold the ink which the poor sufferer had just borrowed to write the note which Stanfield had received. When the girl reached the door of this wretched apartment, and opening it, beckoned to Stanfield to follow her, though impatient to enter he felt so agitated, that he was compelled to wait a minute on the landing-place to recover himself, and Mrs. Wilson concluded that her application was unsuccessful. She faintly said, just raising her head from the bolster, and drawing an old reticule from under it, (there was no pillow) "He will not come? well, I don't deserve it, but here is sixpence for you, Mary; I shall not want it, though it is my last;" and she sunk back, exhausted with the effort, while the child, with a sort of intuitive delicacy that I have often witnessed in the poor, declined the proffered reward, adding, "I hope you'll want it yet, Ma'am, for I have brought the gentleman." Stanfield could refrain no longer; he rushed into the room, knelt by the bed-side, and with all the tenderness of former love, embraced the dying victim of woe and want, before she was well aware of his approach

His first care was to provide her with attendance and ordinary comforts, for she was destitute even of assistance, except what she occasionally received gratuitously from the girl, who was the daughter of another lodger in the same house. She was incapable of immediate removal, but she so far rallied under affectionate nursing, that Stanfield entertained sanguine hopes of her ultimate recovery. On the fifth day after his first call, he carried her down to a coach, and had her conveyed to respectable lodgings which he had engaged for her in Guildford street. It was here that I found her when I accompanied him. I had never seen her but once before, when riding with him in the park; she was then in all the spring of youth and beauty. I had noticed her with admiration, but with little interest; when however, I saw her now, her face still glowing with the hectic flush of confirmed consumption, but her forehead and neck pale even to ivory whiteness, and her hollow, deep blue eyes, gleaming with preternatural brightness, while they followed every look and every movement of her lover with fond gratefulness for his tender solicitude, and bespoke a cheerfulness not the

less attractive because it was subdued by the inward conviction that her present happiness would be but the sunshine of a few hours, never, to the end of life, can I forget the impression that the contemplation of her expressive countenance then made on my mind! and her affection at length was innocent, for she had been long a widow.

It was more than a fortnight before she was sufficiently strong to tell her tale of misery in a connected strain; she expressly desired my presence at the time: as for Stanfield, he never left her day or night; he slept on a sofa in the adjoining room, and nursed her like an infant. She had already at intervals, as she found strength and spirits for it, put him in possession of all the occurrences of her life since their separation, nor had her sincerity in the least diminished his fondness, it rather increased it; he had in return avowed to her his intended marriage and the reason of its being given up, and it was this circumstance that induced her, with a truly generous anxiety for his future happiness, to wish for my presence, that I might, if necessary, attest his innocence, at least of her seduction. I cannot pretend at

this interval of time, to give her statement in her own words, for though I noted down the principal facts, I made no other memorandum of it. It was in substance as follows:

"You will be distressed, Mr. Sharpe," and she hesitated as if for a word, "I should say disgusted, Sir, (I know not why I should be too nice about the word,) when I tell you all, but you must prepare yourself for a sad story. Captain Wilson married me because he wanted money, and he thought I had more than I really had; this led to all our misery; you look as if you would ask why I married him? for the same reason, I believe, that most young girls do the same thing! I wanted to be independent, and have an establishment of my own, as it is called. Alas! I little knew how little independence there is in married life, where there is no affection: in twelve months he had spent the whole of my two thousand pounds; he had nothing of his own, besides his pay: but we had a well-furnished house, a large acquaintance, and we found a resource in play: they may well call such places hells, Mr. Sharpe! our house was truly one, though we kept up appearances so well, that it was little suspected.

My husband did not often show himself at our evening parties; he left them to me, that I might seduce the young men who frequented them, into intimacy, before they were alarmed into distrust of him: you will excuse my not dwelling on these scenes, I have not strength for it now; it is enough to say that I was too often successful, and my wicked husband connived at it."

She was here obliged to stop, and I entreated her to drop the matter, as she had explained enough for me to guess the rest; but she motioned Stanfield to take me into the next room, and he then told me that her heart was so entirely set upon the disclosure, that it would give her more relief to make it, at whatever trial of strength and spirits; the motive she assigned for doing it, was one to which we both felt bound to defer. Finding herself more capable of exertion than she had yet been since she had been removed, she had resolved on receiving the sacrament, and all the past week had been spent in anxious preparation for it. Stanfield had been her spiritual instructor. He had urged her to send for some of her family, but she had peremptorily refused; not from shame

or animosity, though she had applied to them in the extremity of her sufferings, and received no reply; but she observed that if her brother or sisters came, (her parents were dead,) they would, from ill-timed regard to appearances, exclude Stanfield from her room, and this would be a blow she could not in her then state of debility, expect to survive; she wished, however, for their sake as well as his, to afford every explanation she could of her past life, as the only reparation she felt it in her power to offer. We returned to her bedside, and she immediately resumed the subject.

"Capt. Wilson has gone before me, Mr. Sharpe, and I ought not to speak of him harshly, but I have found it difficult to avoid it: I forgive him as I hope,"—she paused, and turned to Stanfield, "nay, George, *I am sure* my Saviour has forgiven me!" She again addressed herself to me, with a gentle smile on her face: "it was not easy to ride out with *him* every day, and sing with him every evening, and carry on our schemes against his pocket! Capt. Wilson was incensed at this child's play, as he called it, and insisted on me giving it up, if I could not turn my influence to better ac-

count. It was this that led to my intrigues with Mr. Thornhill. *You* would not quarrel with me, George, and I was obliged to quarrel with you, though it went to my heart to do so. The return of the music-books broke off all acquaintance with Mr. Thornhill, and this second failure caused a total rupture with my husband, whose necessities at that moment were most urgent. We quarrelled, and he turned me out of doors: it mattered little for that, for the next day our furniture was seized, and I must have gone then at all events. For a few weeks I took refuge with an old domestic, but I could not remain with her long, and what was I to do? I knew your generosity, my beloved friend, but pride forbade my appealing to it under such a change of fortunes, especially after I had used you ill. I had no choice: I did as others do; and yet, George, you may be satisfied that my attachment remained unchanged when you see that I have preserved this little gift in all my cruel fortunes, though it has been in the hands of half the pawnbrokers in London!" She produced a plain gold buckle, which Stanfield had had made for the skirt of her riding habit. "I

tremble to think," she added, "of what I have often submitted to, that I might redeem this valued relic!"

She could continue no further, for this recurrence to her degraded position was too exquisitely painful, and she fell back utterly exhausted. As soon as Stanfield had restored her to a state of temporary ease, by aid of the usual cordials, I took my leave. I saw her once more, at her own earnest entreaty, to receive a last farewell, but that week had not expired when she died in Stanfield's arms, not in sadness, but in the calm expectation of a sincere penitent who had laid her sins and her sorrows at the foot of the cross.

I attended her remains to the grave, in company with my poor friend, and in that grave he has since been laid himself. In discharge of the duty which Mrs. Wilson entrusted to me, I communicated the outline of her story to Mr. Fortescue; he discredited every word of it, and adhered to his first resolve. Stanfield however, though unknown to me, had forever abandoned all thought of marriage with his daughter, or indeed with any one else: not that he brooded over Mrs. Wilson's loss, after the first shock

was over; for a time he was depressed to the last degree, but this wore away with time, and he recovered his usual spirits. His health however was seriously affected: I have heard medical men observe, that though consumptive complaints are not infectious, there is a danger of infection if a party predisposed to receive it is brought into frequent contact with a patient in the last stage of a decline. It may have been owing to this cause, that within a year of Mrs. Wilson's death, he exhibited the usual pulmonary symptoms in an aggravated form. It is one of those curious weaknesses of the human mind which we cannot trace satisfactorily to their source, that though Stanfield was undoubtedly a man of sense, as well as a man of talent, and, as I have observed, bore his loss with firmness, and forced his spirits to rally at his bidding, he appeared to contemplate the progress of his malady with a feeling near akin to satisfaction. In deference to the wishes of his friends he made the usual sanatory tour to Devonshire and the south of France, and returned with the usual result, — increased debility and exhausted spirits. He sent for me to see him; he had not yet laid aside his

mourning, and "I think I never shall," was his reply to a hint that I gave him of his indulging in it too long.

"That is the very topic on which I wanted to see you, Sharpe. You have not forgotten where poor Sophia died?"

"Certainly not; what then?"

"You must engage that room for me, and the adjoining one for yourself; I wish to die there too?"

Touched as I was with this romantic trait of feeling, I resisted, and remonstrated against an indulgence of it, that his friends would call silly, and all would think imprudent; but it was in vain.

"I know they would call it silly, and therefore I do not ask them; and as for the imprudence, it will raise my spirits rather than depress them; but my strength is already gone beyond the power of the mind to affect: will you refuse me?"

I could not; the apartments were again engaged, and strange to say, from the hour that he took possession of them, his vivacity seemed restored! He did not however last much longer, I soon followed him to her tomb;

and by the last injunction of his dying lips, I followed him — alone!

Should my readers be inclined to blame me for this long digression, I must admit that there is in it little of practical utility, in reference to my avowed object; all I can say for myself is, that to my own mind the tale is instructive, on the folly of rejecting imputed criminality as incredible, because it is laid to the charge of parties apparently beyond suspicion: if I have trespassed too long in reference to this position, I beg pardon, but I could not bring myself to cut short the tragedy in the middle.

CHAPTER XXII.

"Hoc vero occultum, intestinum ac domesticum malum, non modo non exsistit, verum etiam opprimit, antequam prospicere, atque explorare potueris."—IN VERR.

"Certet mea diligentia cum illorum omnium cupiditate."

IBID.

THE embarrassing situation in which an attorney finds himself placed, as the recipient of extreme confidence on domestic quarrels and suspicions, not unfrequently from several members of the same family, requires from him at times, a degree of tact in informing himself of the exact measure of credit which he ought to give, not only of a different class but of far more difficult attainment than the usual professional address requisite for sifting a witness; and for this obvious reason; that he can have no recourse to third parties, to decide between brother and brother, husband and wife, parent and child, on which side the weight of evidence lies: we are often invited by persons standing

in these near relations, to settle their conflicting claims upon each other, and not seldom to adjust their quarrels, and restore domestic harmony. This is the most irksome of all professional duties, and in some respects the most difficult to discharge. If no private acquaintance subsists between the attorney and his client's family, the course is clear enough; advise him for the best, as regards his personal interest, and decline all part in private quarrels or discussions, ultra the strict limits of professional duty, leaving such matters to themselves, or handing over the disputants to the kind interposition of mutual friends; but it often happens that the family solicitor is invited by all to become the family referee, and to mediate between relatives so circumstanced, that mediation, unaided by legal knowledge, must prove of no avail: in such cases it is unfriendly, cowardly, and selfish, to decline the office, merely to avoid the hazard of being drawn into dissension; but it is most difficult to discharge it, for the reason I have assigned; that there is no disinterested witness from whom facts can be correctly gleaned, and by whose evidence the merits of the quarrel can be ascertained:

the balance of probability, aided by our personal knowledge of individual character, is then our only guide.

A very singular affair of this kind once occurred to me, in which the peace of a whole family was at stake, and in which I must acknowledge with all humility that I was completely in error, and occasioned I fear, for a time, more mischief than I was called in to heal.

A gentleman who had long been my client, gave me instructions for his will; his property was not very large, and as he had only two sons between whom he wished it to be fairly divided, the limitations did not threaten to be very complicated: one of these sons was in India, the other, Frederic, at home, and both of them married men. He had resolved to bequeath the whole equally between his sons, if at his death they had each the same number of children in being or in immediate expectation; if otherwise, it was to be divided into as many portions as there were members of the two families, and each member, including the parents, was to take *per capita*, as we term it, the fathers enjoying the interest of their chil-

dren's shares for life. This was the outline of his scheme, and he announced it to his son in England; the son immediately called on me and in the strongest terms deprecated such an arrangement, though apparently nothing could be more equitable: I of course referred him to his father, and was obliged to turn a deaf ear to all his expostulations: a few days after the son's wife also called on me, protesting in language as decided as her husband's against the plan, but speaking of her husband in terms of such sarcasm and mysterious reproach, that I was convinced, whatever might be his objections to the proposed disposition of the property, they were very different in character from his wife's. I gave her the same answer: a week passed over, and a brother of the wife in India also favored me with a visit, and dropped many hints of the general dissatisfaction that all the family would feel, not excepting his brother-in-law, if Frederic were allowed the unrestricted enjoyment of the interest of his children's expectant fortunes. On perceiving the universal repugnance to the proposed distribution, I thought it right to suggest to my client the propriety of reconsidering his instructions;

he was a man of very manageable and reasonable temper, and determined on having an immediate explanation with his children; but the result was far from satisfactory; no plan that he could devise would meet all their wishes, though it led to certain discoveries that menaced eternal discord, and even a separation of Frederic and his wife: the latter charged him with infidelity, and the brother of the wife in India corroborated the charge. Frederic denied it with indignation, but in vain; it seemed that his wife had for a long time past indulged herself in dogging his steps, intercepting his letters, bribing his servants, and such like honorable reconnoissances too frequent with jealous ladies; and the fact was too truly ascertained that poor Frederic was in the habit of visiting a fair creature that lived in a village near town. The father was much incensed, the son not less so, and the wife the worst of all; for Frederic, while he vowed his innocence, also vowed that no power on earth should make him drop acquaintance with the girl, or continue it with his jealous vixen of a wife. This was the state of affairs when I was invited by common consent to arbitrate between the

parties. I exerted myself to probe the case to the bottom, but I could make nothing of it consistent with Frederic's innocence, and more especially when even to my friendly and quiet remonstrances, he contented himself with giving an emphatic negative to all hope of his detaching himself from this unfortunate connexion. I set it down to infatuation, acquiesced in the necessity of his allowing his wife a separate maintenance, and concurred with the father and all the rest of the family in the expediency of altering the testamentary arrangements. Frederic, to avoid the painful *eclat* of an exposure, went to spend eight months in Italy. At the end of that time he returned, and the whole mystery was now cleared up: the generous fellow would rather have died than disclosed it without his brother's sanction, nor was it ever disclosed beyond the family, till his sister-in-law in India died. The supposed *chere amie*, the cause of all the clatter, was a former wife of the brother in India, a girl of low character, whom he had married in a fit of folly. Frederic was the only one intrusted with the secret, and he sacrificed himself to save his brother from an indictment for bigamy,

and perhaps "a bullet through the thorax" as preparatory thereto. It was scarcely less generous of him to withhold the explanation from me; for had he given it, my own embarrassment as to the course to be pursued, would have been not inferior to his: to have divulged it to his wife would have been the same thing as advertising it in the Times; to have explained it to the father would have, necessarily, caused the disinheritance of the brother, and without divulging it to one or the other, I could have hoped for no credit to my attestation of his innocence. I was thankful for the escape.

CHAPTER XXIII.

"A rotten case abides no handling."—HEN. IV.

"*Orleans.* He never did harm that I heard of.
Constable. Nor will do none to-morrow."—HEN. V.

I HAVE scribbled away in rather a desultory vein for some time past; but it is difficult to say whether it fatigues one more to write or to read a work duly arranged under heads and subdivisions, in the orthodox style of pulpit eloquence. It wearies one uncommonly, to be on an eternal hunt for the "thread of the discourse," however necessary it may be to help one through a labyrinth of doctrinal and practical intricacy. It is all very well in a brief: there the duty is to instruct, amusement being wholly out of the question; if the nature of the cause admits of it, and wit is ready, an attorney may venture to carry the *utile dulci* principle even into his brief, but he must do it very skillfully; most counsel only read every alternate

page, some not quite so much; he may therefore venture so far as to carry on the argument through the first, third, fifth, and alternate pages, and the jest through the intermediate ones; only taking the precaution so to adjust the tastes of his leader and junior, as to make sure of the one reading the facts, if the other is content with the jokes—both tell equally in taxation of costs, and that is, of course, our first care. I have taken this rule for my guide, in drawing my brief for the public: the price of a book depends on its length, not on its merit; hence, in the affair of taxation, I shall be at all events a gainer; the public rarely read more than half a book, if they look at it at all: of those who do read, the leaders read for instruction, the juniors for amusement; but there are twenty juniors for one leader: hence, every author who wants a liberal allowance of costs from his publisher, (and they are sad screws, even the best of them,) should give twenty pages of nonsense for one of argument. Can there be a better apology for a desultory vein? But I will prove, nevertheless, that I am not wholly lost to the duty of method in composition, by reminding my reader that I have told

him how to keep upon terms with clients, counsel, attorneys, and witnesses; and here we might suppose that we had laid down all the shoals in the professional chart; I should be an unskillful pilot, however, if I withheld a word of advice on conducting a vessel safely, when she proves not altogether seaworthy; or to drop my metaphor, a hint on the management of *awkward cases*, may not be out of place. A single instance will explain what I mean by an "awkward case." I have given a few of them already, but only by way of illustrating some collateral point.

Personal squabbles where both parties are in the wrong, that is, ninety-nine out of a hundred, are very "awkward cases;" and more especially where the symptoms indicate a breach of the peace; but this is rare; peace in a legal sense, is very seldom broken when an attorney gets an inkling of the matter, though it is not always easy to keep up appearances as well as if it were. An affair of this kind occurred to me some years ago. The senior performers in the scene were two highly respectable tradesmen, in wealthy circumstances, and with whose families I was on terms of equal intimacy. I

have often noticed that young gentlemen in this class of life, are more eager aspirants after gory fame, and more touchy on questions of honor, than those of purer patrician blood.

I had reached the enviable certainty of professional income that warrants a beginner (in modern days) in riding daily to his office from cheerful lodgings at Hampstead. It is an idle habit, I confess; and one of the evils of it is that twenty minutes are daily lounged over a newspaper, before one has courage to open the general post letters. This was my occupation when in rolled Mr. Watty, in agitation that seemed to portend a *ne exeat regno* for a debtor to a large amount. He was a man of that convivial cut, that somehow or other one seldom sees out of the city; of the ordinary height, but of far more than ordinary rotundity. He, like another of my heroes, carried before him a semisphere that argued capacity of the highest order; and it would have been as hard for him as for Falstaff to have seen his own knees, but for a happy provision of Nature, who from his birth must have foreseen the necessity of guarding against this inconvenience: his lower extremities described a conic section, of which the minor axis

was to the major in the proportion of five to six; rotundity was the character of his whole person; his head was round; his face was round; his—in short, a perfect circularity of outline marked the man.

"Dreadful affair, Mr. Sharpe! sad business this!" and he wiped away the perspiration from his forehead, while he paused to recover breath. "What's to be done, Sir? eh?"

"I have heard nothing about it, Mr. Watty."

"Don't know how you should—only heard it myself an hour ago."

"What's the matter?"

"Tom Watty—Tom Wildblood—Tom Devil wants to be shot: that's all!—always thought he'd be hanged soon enough."

"Enlisted, I suppose?"

"'Listed!—wish he were, or any thing else in an honest way. He's as sure to be hanged as my name's Watty: that is, if he be not shot."

"Who is going to shoot him? has he got into a quarrel?"

"That's where it is—you've just hit it—head over ears in a quarrel, and no help for it!"

"Well, let him get out of it for himself: he will know better another time."

"Meanwhile he's shot! a dead man, Mr. Sharpe! What's to be done?"

"There's a challenge then?"

"Didn't I tell you so an hour ago?"

"No: where is he?"

"Snug at home—locked him up while I came to you."

"Go back to him then; take him in a coach to Bow street; lock him up there; and he'll be obliged to you all his life."

"No use without you—the dog's turned sulky—swears he'll fight—no holding him."

"Trust me for that; off with him to Bow street; I'll meet you there in half an hour, and you'll see that he is as quiet as a lamb."

Mr. Watty waddled away a little assured, and as soon as I had read my letters, I proposed following him; but I was scarcely ready, when I was intercepted by his friend and neighbor, Mr. Gillett, a very prosperous tailor, who had gradually mounted from the shop-board to the elevation of an army contractor. Gillett was the very antipodes of my friend Watty, as neat and dapper in figure as he was in dress, and very meek and quiet withal. He was accompanied by a stripling of nineteen or twenty,

whose small foppery and exuberant self-complacency were precisely of that class that raise the foot involuntary into the position of an incipient kick; and the monkey affected mustachios too!

"I beg your pardon, Mr. Sharpe," began the father, "I see that I am interrupting your letters; but you will excuse me, Sir, when you hear my unhappy story. This young gentleman—I am sorry to mention it, I am indeed, Sir,—this young gentleman makes me ashamed of myself! he really does, Sir! he makes me ashamed of myself, and of him too, Sir!"

"No need of that, father! I've done nothing for a gentleman to be ashamed of: a gentleman must act like a gentleman, father!"

"I don't deny it, Harry: I don't deny it, by no means. I know what is due to a gentleman, or I never could have made you one, Harry; but it is not genteel, not at all genteel to my thinking, to be talking of pulling of a gentleman's nose. I'll be judged by Mr. Sharpe if it is."

"Certainly not; but what's all this about?"

"My honor, Sir," cackled out the lad in a mincing tone, and drawing his fore-finger

down each moustache the way of the grain, "my honor has been insulted, Sir (*hem*)—and father here won't let me have that (*hem*)—that ample satisfaction, Sir, that a gentleman, in my humble opinion, is entitled to, Sir,"

"Pray who has insulted your honor? I don't understand you."

"Nor I neither, Mr. Sharpe: I don't know what the boy means at all, not I. I have lived to be fifty, and my honor was never insulted yet, as I know of."

"No boy either, father, if you please: you forget that I've left school these two years, and kept three terms."

"Were I your father, Sir, I would send you back again, and have your honor insulted to some purpose. You have been sending a challenge, I conclude, to some juvenile puppy like yourself?"

"Thank ye, Mr. Sharpe, thank ye for that: that't just what I've been a saying to him all along, or what I wished to say, for I didn't exactly know how."

"Ra-ally, Mr. Sharpe,—ra-ally, Sir, on my honor I can't say, Sir—I ra-ally scarcely know, Sir, how I am to understand this. Do

you mean,—that is, am I to suppose, Sir—do you mean to insult me, Sir?"

And thereupon Mr. Harry Gillett began to stare, and frown, and look uncommonly fierce. I regarded him sternly for about a minute, without replying to this piece of swagger, or seeming to notice it; and still keeping my eye upon him, I addressed myself to his father.

"How did the lad get into this mess?"

"All about a lady, Sir—a handkerchief, I believe—both picked it up, and knocked their heads together; but I can't get to the rights of it."

"And thereupon Master Harry sent a challenge?"

"Yes."

"And who is the other blockhead?"

"Mr. William Watty."

"The grocer's son?"

"Yes."

"Well, young gentleman, do you propose to carry this farce any further?"

"Ra-ally, Sir, (still stroking the dear mustaches,) my honor compels me, Sir; sorry to disoblige the governor, Sir; but my honor leaves me no alternative, Sir. I ra-ally mean fighting: I do indeed, Sir."

"Very well: then we'll all fight it out together."

And accordingly I sent for a coach; and we all got into it—Master Harry not evincing the least reluctance. We arrived at Bow street; stated the case quietly to the magistrate; and he, with great judgment, bound over the lad in his own recognizance, for ten pounds, and at my earnest request, required two sureties in twenty pounds more. Watty's son, who had preceded us only a quarter of an hour, was subjected to the same terms; and I prevailed on both parents to refuse their aid, so the boys were comfortably locked up together for want of sureties, to fight it out in a closet ten feet square. To make sure of the babies having enough of it, uninterrupted by paternal tenderness, I carried Messrs. Watty and Gillett home to dine with me, kept them late over a bottle of wine, and returned to the police-office about nine in the evening, to give bail for the young gentlemen, "if we found them agreeable," as the tailor called it; and agreeable enough they were. They were still in custody; but being half-starved in consequence of being locked up since eleven o'clock, and having but ten shillings

between them, they had clubbed their purses together, sent out for a steak and a bottle of wine, and were as sociable and merry as twin brothers over a birthday cake!

Another awkward case of similar, but more serious character, occurred to me about the same time; in this instance, however, I was invited to be "the friend," as it is called, not the attorney. A distant connexion of my own, a young barrister who has since obtained very extensive and well-merited success, called on me with a letter that he had just received from a military man, a captain on half-pay, but once belonging to a distinguished hussar regiment, and a frequent guest, as I have been informed, at Carlton House. This letter purported to be a *chastising* lecture for certain indiscretions of which my young friend (he was not then two-and-twenty) had been guilty to a widow lady—pardoned, though not pardonable indiscretions. The gallant captain was no relation to the fair widow; but he had certain designs upon her, not of the most creditable kind, which I will presently explain. He adopted this chivalrous course to obtain her confidence in furtherance of those designs. I read

the letter; and plain enough it certainly was, though written more in the tone of bitter expostulation than studied insult.

"What do you think of it, Sharpe?"

"'Tis intelligible enough, certainly; but you know you have behaved very ill."

"No doubt of that; but it is no affair of his; nor, I am sure, would *you* wish me to keep up such a connexion."

"Certainly not; but you might have broken it off more gently."

"Perhaps I might, but it is no affair of his: will you call on the man for me?"

"Call on him! do you mean call him out?"

"To be sure I do. I can't put up with this, of course!"

"And you want me to be your second?"

"I do."

Here was another ridiculous affair; except that the young gentleman's birth and profession, and the aggravated character of the insult, furnished him with a quasi apology—his opponent being also a man of family as well as an officer. I felt that this was no case for magisterial interference, and I was persuaded that if I declined the office, he would get into worse

hands before the day was over; so after a little reflection, I consented to take his message. We prepared a reply in the usual form, and away I posted to the captain's lodgings. I sent up my card, and found him lounging over his breakfast, though it was long past noon. He received me with extreme courtesy.

"I have called on you, Sir, in consequence of a letter that you have addressed to Mr. Stephenson."

"I expected to hear from Mr. Stephenson, Sir," stiffly inclining his head.

"Your expectation, whatever it may have been, will not be disappointed, Sir," I replied with equal hauteur. "I have a letter from him in my pocket." He extended his hand to receive it: but I did not even offer it.

"Excuse me, Captain Ranson: before I deliver this letter, for there is a responsibility in delivering as well as in sending it, I must entreat you to indulge me with a word of explanation on my own account. I have read your letter to Mr. Stephenson, and I must frankly avow that I do not understand it."

"I thought I had written with sufficient plainness, Sir: I intended to do so."

"It is very plain, undoubtedly, except in one important point, and it is by your explanation on that point that I must be guided in my own further interference.

"To what do you allude?"

"Why did you write it at all?"

"After Mr. Stephenson's behavior to Mrs. Roberts, I conceive that any gentleman of her acquaintance is entitled to remonstrate with him."

"Then you designed it as *a remonstrance*, Capt. Ranson? am I to put that construction upon it?"

"You may put what construction you please on it, Sir."

"I avail myself of that permission. In reference to your seniority (he was more than forty), you were entitled, as a friend of both parties, to speak in the language of *paternal remonstrance* to one who is young enough to be your son. I shall, therefore, tell him that I have your authority for viewing the letter in that light; and under that impression, I shall, with your leave, throw his answer in the fire?"

"Exactly as you think proper, Sir."

"Very well: then I burn it."

And I threw the challenge into the fire. The man rose from his seat, spontaneously took me by the hand, and cordially shaking it, said,

"Sir, you may go further, and tell Stephenson that I am heartily sorry that I wrote it, and will gladly shake hands with him too; but that you may see I was prepared for you, had you not so ingeniously settled the matter, my friend Captain Thornton is in the next room, and will show you the letter that brought him here."

And true enough, he introduced me to Captain Thornton, who came in with a note still open in his hand, that had been written an hour before I called, to request his assistance at the expected meeting! I am sorry that I must dispel the favorable impression likely to be produced on the mind of the reader by this generous trait, by giving the remainder of the "awkward case." About a month after this *eclaircissement*, Mrs. Roberts, the lady in question, called on me to ask my advice, the gallant captain having availed himself of the hold he had acquired upon her confidence by thus espousing her wrongs, to rob her of £1800 stock, having obtained her signature to a power of

attorney to transfer it, under pretense that it was only a power to receive her dividends for her! I was compelled to tell her that she had no remedy, and she went away in despair. The next day she again came to tell me he had also stolen a gold watch from her dressing-case. The evidence was conclusive; and though it was business of that class that I could not undertake myself, I gave her a letter of introduction to a very celebrated attorney, who soon availed himself of the gold watch to recover the stock. He obtained a warrant for the captain, and then wrote to a noble lord, his cousin, and explaining the circumstances, informed him that he would be brought up for examination the following day. His lordship replied that he would be too happy to see the fellow transported; but the attorney was not "to be done" this way. The captain was remanded; and he then wrote to the noble cousin, "I do not intend to transport him, my lord: I shall hang him." This very laconic rejoinder produced the money before the re-examination, when of course, a link in the chain of evidence was wanting, and all parties were satisfied.

I cannot do things of this sort myself, but I

do not blame others who are less scrupulous; and therefore, this hint on the management of "awkward cases" is not superfluous. The offense was at that time capital; and the captain would undoubtedly have been hanged, if only because he was a captain, with a noble lord then high in office, for his cousin.

I have already observed, that attorneys are very rarely consulted on any case of duelling, till the danger has passed away, if it ever existed: but our assistance is sometimes wanted in that stage of the squabble, which is, of all others, the most difficult to manage; and hence I class these disputes among the "awkward cases." We are usually consulted precisely at the moment when the hostile intention has got wind, but while there is yet time to frustrate it, without public exposure; if we immediately take alarm with our client, and hurry off to a magistrate for a warrant, we run the hazard of disgracing both parties, by exciting a suspicion that the interruption is intended; and consequently we provoke the principals, if really spirited men, to cross the channel that they may fight it out in peace: yet, on the other hand, it must be acknowledged that it is a great stretch

of professional discretion, to remain seated before the fire, with our hands in our breeches pockets, like Sir Francis Head at the revolt in Canada, when a brother, or father, or female relative, is imploring our assistance to prevent a man being shot *in presenti*, or hanged *in futuro*.

This case is not so unfrequent as may be supposed, and its frequency has led me to certain deductions not very creditable to the chivalry of the age. I certainly have more than once been asked to interfere in cases where I was well assured that no design existed of willful indiscretion: one of these cases was so singular, though the hostile purpose in this instance was certainly entertained, that I cannot help noticing it; more especially as I believe that the party implicated was exposed to some unmerited reproach among his domestic circle. The usual message had been sent—the usual reference given to a friend; and the seconds were engaged in an attempt at explanation, previously to adjusting the preliminaries of war. The principal on whose behalf an appeal was made to me, was a married man, but his wife and family were at a watering-place, fifty miles from London; he therefore thought himself quite safe in

staying at his town residence as usual, while he waited for the orders of his second; it so happened that he had remitted to his wife, two days before the message was delivered, a bank note for a considerable amount: he had sent this by a friend, and had written by the post, to tell her he had sent it. The post letter arrived at its destination, but his friend had been obliged to defer his journey, and the bank note consequently never arrived: he had not stated in his letter anything more than that he had sent the note, neither mentioning the name of the party by whom he sent it, nor the conveyance by which he was going. When a second day had passed without the arrival of the note, the lady was so alarmed lest it should have miscarried, that she immediately put herself into a coach, and came to London, naturally proceeding in the first instance, to her own house: her husband was not at home, and, on going up to her room, she found his morning dress lying upon a chair; on inquiry for him of her servants, they could give her no reply, except that he had been at home all the day, with orders to deny him to every body, except Colonel Jones — that he had changed his dress half an hour before,

and gone to Colonel Jones's to dinner: she immediately sent her servant there, to say that she had returned home, and was expecting him, as soon as he could get away: the servant went upon his errand, and delivered the message, but was desired by his master to wait. Meanwhile, the lady finding that the man did not return, became uneasy, and dispatched her coachman after him; this messenger was also detained: she then was preparing to go to bed, but directed her maid to empty the pockets of her master's coat, and replace it in the wardrobe; the girl obeyed her, and took out several letters, which she laid on the dressing-table, the uppermost having Colonel Jones's name at the corner of the address: the lady very naturally opened it, thinking it was probably an invitation to dinner that day, and might tend to explain the inattention to her repeated messages; she found to her horror, that it was an appointment for the following morning, so worded that she could not entertain a doubt of its meaning, especially when coupled with the fact of her husband having denied himself to every body except Colonel Jones. In fact, he had gone to the Colonel's for the express purpose of making the necessary

arrangements: she had the presence of mind to come to me at my residence, instead of following her husband. I was enabled by means of my own servant's *renseignemens* below stairs, to trace his steps from the Colonel's house, and, of course, I lost no time in following him to his place of concealment. By my interposition, everything was satisfactorily settled, and, to this hour, there are not, as I believe, twenty individuals out of their respective families, that have even a suspicion of the matter.

I have been the more particular in these details, to show how easily a case may happen in which such affairs get wind, without the least reproach to any of the parties; but still I agree with the world in thinking that in most cases, the carelessness is willful; and hence I infer that it may safely be assumed, that the principals in an intended duel, unless they are juvenile fools who will risk every thing for a little *eclat*, meet reluctantly, and would gladly not meet at all; nor is this any reproach to them; for a man who could face the cannon's mouth under a sense of duty, may be pardoned, without any slur upon his courage, for entering with nervous apprehension upon an encounter without a tenth

of the danger, where duty and conscience, in spite of all the sophistry of the world, must tell him that he is wrong: not only wrong, but, in some sense, committing the only unpardonable sin.

Acting upon this principle, whenever I have been called upon to interfere in an "awkward case" of this description, whether as a solicitor, or a friend, my first maxim has been to "soft-solder" the party into a qualified acknowledgment of error: and this is not difficult, after intimating in the gentlest way, that a meeting is out of the question, measures being ready to prevent it, but that your object is to avoid giving publicity to the disappointment. It is not always possible, I admit, for a second to do this, but it is always possible to the attorney, and generally so to the friend, before he becomes a second. A generous man, moreover, is always ready to acknowledge error: he only hesitates lest it should be thought that he is driven into the acknowledgement by fear. I have then proceeded, careless about any introduction but my own, to the antagonist, and being careful, in the same way, to premise that all my object is to avoid publicity to a necessary interruption of

the ceremony, I have succeeded with him with as little difficulty as with the other; a due reservation being always, of course, made for the arbitrament of their respective seconds. These gentlemen are the most difficult to manage, but a professional go-between, if gifted with any dexterity of address, can manage such matters wonderfully, provided he only takes care to intimate, with all possible courtesy, that his object is to insure secrecy in a case which will gain credit for nobody in Westminster Hall.

It may well be supposed, that no individual can lay claim to so much experience in such affairs, as to lay down these general rules *ex cathedra*. I certainly have never had above half-a-dozen cases of the kind occur to me, in five-and-twenty years of practice; but I suspect that although we scarcely hear of half-a-dozen duels in the course of a year, there are at least half-a-hundred cases within the same time, in which matters would proceed to extremity, but for the interposition of judicious, or injudicious friends: where the judgment is wanting, reconciliation is not effected without discredit to one party or the other; my object is to guide such interference with judgment.

All cases of quarreling between private friends, though they stop short of the extreme of personal conflict, are very "awkward cases," when recourse is had to professional interference; private quarrels become implacable exactly in proportion as they become public, and when they originate in pecuniary questions, as they generally do if they require our aid, it is not easy to avoid giving publicity to them. It is very difficult to manage such matters by rule; we must be guided by the importance of the sum in controversy—by the relative position of the parties—by their respective tempers, and personal character; whatever these may chance to be, one danger is specially to be avoided—we must treat the whole affair in the dry style of business, and be most cautious not to involve ourselves in the irritation of our clients. A family dispute is one of the rare instances in which sluggishness is prudential on the attorney's part: he risks very little in the way of credit by inactivity, for intimate friends or near relations are extremely well-disposed to reconciliation after a reasonable time to cool; and then they are well pleased that matters have not been hurried on to that point

which entangles reconciliation with troublesome questions of costs. It has been my principle never to issue a writ, or file a bill, between members of the same family, till I have been positively dunned into proceeding; nor even then, till every proposal of reference to counsel, or to friends, has been deliberately and advisedly rejected. I may have lost an equity suit or two by this extreme precaution, but I believe I have never lost a client, and often saved a friend.

Conjugal differences form a large proportion of the class of "awkward cases" referred to the family solicitor; and in cases of this description, the principle that I have just laid down must be reversed; they rarely, if ever, admit of permanent reconciliation: indeed I should say never, unless by a happy chance, both husband and wife are people of good sense, and the interests of children are at stake; it is seldom however, when this is the case, that conjugal differences arrive at that point that requires foreign interposition. It is true in most instances, but in conjugal disputes the rule has no exception, that both sides are in fault; the same may be predicated of the yet

more frequent quarrels between father and son, where the former is tenant for life, and the latter tenant in tail; a secret distrust of the party whose duty it is in these domestic relations, to be submissive, is generally an error on the safe side, if an error at all; and consequently in listening to reciprocal complaint, we may fairly incline to the husband or father, if the dispute is so complicated as to admit of doubt; it is no trifling point to gain on such occasions, to know where the fault principally lies; it may lead us to the only conciliatory path, and I need hardly observe that I do not write for that unprincipled man, who would for his own profit foment a dispute, where conciliation might by possibility prevent it. But if domestic harmony appears hopeless, then the attorney must act with decision, regardless whom he may offend; and as it frequently happens that he is consulted by both parties, his duty is to act on the first retainer, and cautiously to regulate all his previous conduct by the reflection that he may, when all conciliation has failed, be called upon to act professionally for the party that has first consulted him. Under this restraint, he will accept no

confidence from the other, that may place him in the painful dilemma of maintaining good faith to both.

The case of all others that demands the greatest caution and address on the attorney's part is that of imputed infidelity to the conjugal vow; on whichever side the charge arises, it is to be received with suspicion, for it is usually made before it is well-founded, and when once made it has a direct tendency to substantiate itself. Some of the anecdotes already given will abundantly prove that a conspiracy may exist between husband and wife to victimize a man worth "plucking," and the possibility that this object may have led to those equivocal positions of which the husband never complains till he finds the conspiracy defeated, is alone a sufficient reason to doubt his story, if his general reputation is questionable. Many circumstances may assist our judgment on this point: habitual neglect of the wife, systematic desertion of domestic duties, and the parade of what is called fashionable indifference, at the same time that a good understanding and a general outward decorum have been displayed, tend materially to confirm the impression that

the alleged injury may have been preconcerted, if not for the purpose of victimizing, at all events to afford the means of legal separation. In either of these cases, an attorney of honorable feeling will be very backward in allowing himself to be made the instrument of facilitating his client's views; it certainly is not his business to put himself forward as *arbiter morum* to society, but he owes it to himself not to be made subservient to purposes which society condemns. In many cases, however, where there is no sufficient reason to hang back from regard to his own character, there is often much hazard of leading his client forward in a course that will end in irreparable mischief: where such an action fails, or is attended with only partial success, the peace of several families is broken for ever; and, what is still more to be lamented, the prospects and hopes of children are for ever blighted. It is the duty of an attorney, when consulted in a case of this kind, to make himself perfect master of its demerits, not less than its merits.

The first thing to be considered in reference to this point is the temper in which the complaint is made; and here I may observe that

jealousy is rarely prominent where certainty exists; nor is even violent excitement often exhibited where a settled conviction of conjugal guilt is entertained; if I see a man actuated by very strong and bitter feelings, I infer, that whatever ground he has for suspicion, it is after all, only suspicion; and hence that my primary duty is to allay it, unless he discloses facts that ought to be conclusive to an unbiased mind, or that are too unequivocal not to call for inquiry; even when this is the case, that inquiry must be conducted in the most cool and dispassionate temper. Artful servants, mischief-making friends, and gossiping relations, are wont to put the worst construction on conduct that may amount to no more than thoughtless levity, blameable but not decisive. The manner of some men is naturally *empressee* towards females, without any criminal motive; others from mere foppery affect an air of gallantry, or a tone of sentiment, which rightly interpreted, means no more than that they are thinking of themselves in preference to any body else, whether male or female; and often have I seen this coquetry returned, by married women too, so *sympathetically*, that plain matter-of-fact people would set

it down to improper intimacy, while others of more acuteness or more knowledge of the world would only laugh at the deception each party was practicing on the other, and probably on himself. Yet incidents and scenes like these are ill-naturedly treasured up by some of the good folks I have mentioned, and, when a sufficient hoard of them is amassed, liberally bestowed on the "injured husband," as a charitable donation by some pious friend, and like all charitable donations, most gratefully accepted: the unfortunate husband is of course made vigilant, officious servants are set upon to watch, and to vindicate their claim to confidence tell twenty lies for one word of truth; the husband kicks his wife out of doors — loads his pistols — sends for his friends — his friends for the doctor and a strait waistcoat — and after proper commotion, and a decent interval, all hurry away to the attorney, who without more ado, retains Serjeant Wilde, issues the writ, and from that moment all go their own way to the devil! Instances sometimes occur where even less doubtful indications of guilt prove in the event to be utterly fallacious. A gentleman once consulted me in a case in which with all my distrust in

such matters I could not help arriving at his conclusion; but happily we discovered our error in time to avoid mischief. He had been informed by one of those pests of society, the "lady's maid," that his wife received unusual attention from a young clergyman, who was a frequent and welcome visitor at the house, and moreover that a clandestine correspondence had long been carried on between them: a "good-night kiss" too had twice been noticed, and duly commented on below stairs, and sundry other little liberties of no individual importance, but of large aggregate amount, proclaimed a very good understanding between the parties. After much uncomfortable espionage that led to nothing more decisive, the husband intercepted one of the aforesaid letters, and was at once convinced of his dishonor. He brought it to me without an hour's delay; and on the perusal of it, and hearing of the previous occurrences, I quite concurred in his impression; with his approbation I immediatly went to the lady, to intimate the necessity of her taking refuge with her friends. I found the fair one in gay spirits, seated on the sofa with the young gentleman by her side, and her sister next to him. I was embarrassed by

the frank and cheerful reception I met with from all the trio.

"You are just come in time, Mr. Sharpe, we want your help." I looked as grave as possible, while I inquired the occasion.

"We have lost a love-letter, Mr. Sharpe, and Alfred, here, is half mad about it."

"I have it in my pocket, Ma'am," I replied, with awful gravity.

"Let me have it, my good Sir; do give it me directly;" cried the sister, suddenly jumping up from the sofa, and all but offering to search my pocket.

"Stay, Caroline; have patience: Mr. Sharpe, how did you obtain that letter?"

"From your husband, Madam," still maintaining the most inflexible severity of features, but I could not preserve it long; they looked at each other at first with some blushing confusion that confirmed my impressions; but it was but momentary, for the next instant they all burst into uncontrollable laughter, and in spite of myself, and the serious matter that brought me among them, I laughed too, though without knowing why. As soon as she recovered herself, the lady quietly asked me

whether I had read the letter, and on telling her that I had, she inquired with playful anger, how I dared to pry into other people's correspondence.

"Your husband desired me."

"And how dare *he* presume to open it?"

"Because it was addressed to you."

"So you neither of you noticed the C below the seal! that letter is my sister's, Sir; and now allow me to introduce you to Mr. and Mrs. Lawrence; they were married a week ago, and have been engaged these six months!!!"

I looked like a fool, no doubt; it was clear enough that the acuteness of woman's wit immediately penetrated my errand, and a man never looks so silly as when abashed by woman's superiority; the mystery was soon explained; the clergyman expected a living from his uncle, who fondly hoped that the youth would marry his daughter for the sake of the preferment; but the pretty cousin had as little relish for this simoniacal contract as the reverend swain himself, for she too had a little affair of her own on hand. The marriage with Miss Caroline was kept secret, lest it should interfere with the expected preferment, and the husband being

next door to an ass, was not to be trusted with it. The elopement of the pretty cousin a few days after, allowed the whole affair to be published. I only obtained my pardon from the lady on condition that I would remain to dinner, and send to desire her husband's immediate return: she was bent on having her revenge, and when he entered she maliciously begged to introduce him to "her dear Alfred," giving him at the same time a tender kiss, that she resolutely refused to the astonished conjugal culprit. Our laugh at the sally soon relieved his mind, but not till he had vented one or two imprecations that would have dislocated the jaw-bone of any but a true member of the asinine fraternity.

I have known matters go farther than this, and yet stop infinitely short of actual guilt; but I forbear stating the circumstances, because I should be loth to run the bare possibility of reviving painful retrospect in the minds of any reader. Some among the seniors of the profession may be at no loss to recall to mind an elopement where a *locus penitentiæ* was found even in the first stage to Dover! An attorney cannot be too cautious in receiving the first statement of a husband's dishonor, or too doubtful

of the evidence by which it is proposed to establish the fact: where, however, the proofs are irresistible, even there he is not at liberty at once to bring the action. I have already noticed that in all such affairs, there is assuredly fault on both sides. This will always appear on the trial of the issue, if the action is not collusive; and then both parties leave the court irretrievably damaged, and the children, as a matter of course, are excluded from the pale of society. There is a certain pseudo-fashionable class, where this extreme penalty may not be exacted, because the precedent would be inconvenient; but in every class that lays claim to respectability, whether of patrician or plebeian rank, the daughter of a *divorcee* is not favorably introduced, I might almost say, is barely tolerated — the taint, to a certain extent, is hereditary. I enter not into the moral question whether it consists with Christian charity or social policy, thus finally to close the door against the unfortunate woman who has even once strayed from the right path; and yet more to visit a parent's fault on innocent offspring — that is no affair of mine: but I take the rule as I find it; and it seems to me to impose a very serious and difficult duty

on the attorney, he being usually the first man consulted whose opinion is decisive on the course to follow. Before he sanctions by his advice, proceedings of which the consequences are so terrible and so extensive, it becomes him to satisfy himself that the exsposure may not be shared by both husband and wife, and thus orphanize their issue. It is the more important because I have too often seen that in the impatience of redress on the one side, and the eagerness of self-vindication on the other, all parental anxiety is absorbed in selfish feelings, and the claims of the infant are forgotten by those who are especially bound to protect them.

When I was a very young man, I was invited by a friend to dine with him at an hotel at Richmond. He was a married man, and had two children; but he was a gay man, though maintaining a decent reputation in the world. I met him on the day appointed; it was on a Sunday in the middle of summer. We formed a small party of four, all of us Cambridge men. We had finished our dinner, and were drinking wine at a window overlooking the river. Those who are acquainted with the spot will remember that there is a promenade along the top of the

hill between the Star and Garter and the town: our window commanded a full view of this walk. I observed my friend exhibit some symptoms of painful surprise, while watching the pedestrians; and while I was endeavoring to guess the object that occasioned it, he suddenly grasped me by the arm, led me away into an adjoining room, and exclaimed with apparent agitation, "Sharpe, that lady in the pink bonnet is my wife! who the devil can that be with her? what can have brought her here?" He took me to a more private place to point her out to me, and I then prevailed on him to resume his seat, while I inquired about their proceedings. To my amazement I discovered that the lady had arrived unattended, except by this gentleman, at the very hotel at which we were dining, they came in a post-chaise from town, and had ordered dinner in a private room. My only anxiety was to avoid a scene, and to accomplish this, I determined to keep back my discovery, and hurry off my friend as speedily as possible in the opposite direction. I made an excuse for calling him out of the room, and carried him to the Star and Garter, under the pretense that I had traced the wife thither.

I then came back, broke up the party, and giving his cue to the waiter to keep his eye on the guilty pair, I returned with my friend in a chaise to London. We settled on our road that in the event of the waiter's information proving conclusive, the action should be forthwith brought. On his arrival at his own house, he asked no questions, but contented himself with ransacking her desk and dressing-case for letters, left word that he was going out of town that night, and came to sleep at my lodgings. We found two or three notes suspicious enough, and the waiter's evidence completed the detection. I issued the writ, and the usual steps were taken; but all this time I thought my friend was wonderfully cool and easy about the matter; so much so, that though I was perfectly aware that there was no affection in the case, I could not avoid some suspicions that there was a little underhand dealing indicated by such extreme philosophy. The rencontre at Richmond was so singular, the meeting at the same inn, my being there in the very nick of time, the easy capture of the letters, and the prompt compliance with all my suggestions,—all combined to excite distrust; but all my ingenuity

was exerted in vain to unravel the mystery. At last I determined to take him by surprise; and one day after dinner, for he still remained at my lodgings, I put the question to him broadly,

"Owen, what were *you* doing at Richmond?"

"Entertaining you."

"Yes, yes: but when did you arrive there?" You remember that you would not ride down with me, nor yet with Twisden."

"I went first to order dinner."

"What, overnight?"

"Who told you that I spent the night there?"

"The chambermaid." (I only spoke on speculation, however.)

"The little jade! so she betrayed me! and most likely told *my wife* too!"

This admission, so thoughtlessly made, was enough for me. It was clear that the chambermaid knew it was his wife, and she must have either known it from himself, in anticipation of her coming, (for I was certain she had not seen him after the discovery,) or she had learnt it from his wife, who must have been aware that he was at the inn, though owing to my precautions they had not met there! in either case, this

rencontre was not unpremeditated, and the night's absence was still unexplained. I went the next morning to the opposite solicitor: he was a very respectable man, in the true sense of the word. I frankly told him my suspicions, after a little conversation had assured me that I might confide in him, and I found that they were shared by himself. On comparing notes, we placed the matter out of doubt; and on my side, I further discovered that Owen had an illegitimate family near Richmond, a fact with which his wife was familiar. Under such circumstances, no good could arise from prosecuting the action, but much evil to their children. We consulted friends on both sides, hushed up the matter by a deed of separation, and there it ended.

It would be profitless to multiply similar cases, though many have come to my knowledge, free from collusion perhaps, but where both parties had, for mutual convenience, long connived at each other's profligacy. I have experienced others where the husband alone has been criminal in the legal acceptation; but where the jealous fury and vindictive temper of the wife, exhibited prematurely and causelessly,

had led to the realization of guilt erroneously suspected. I knew an instance where I myself advised a separation, to save the wretched husband from the repetition of an assault while he was sleeping, such as an incarnate demon alone could have attempted or imagined. A suit for the restitution of conjugal rights was threatened. I called on the lady's proctor, and put him in full possession of the facts. Familiar as that branch of our profession is with human weakness in forms that become atrocious, he would not credit such an astounding disclosure; but the petticoat-fiend herself acknowledged it, and the suit was of course abandoned. I have said more than enough to bear out my position, that in all cases that occur between man and wife, by far the most "awkward" that ever come under our care, the first duty is to inform ourselves of their demerits.

CHAPTER XXIV.

"You may as well spread out the unsunned heaps
Of miser's treasure by an outlaw's den,
And tell me it is safe, as bid me hope
Danger will wink on opportunity,
And let a single helpless maiden pass
Uninjured in this wild surrounding waste." — COMUS.

THERE is another class of cases very nearly allied to those of conjugal disputes — the "breach of promise" actions; the awkwardness of these however, is very materially relieved to professional men, by the coarseness of mind in which they have their source: it is so obvious that no female, of even common delicacy, will ever allow her fair name to be placarded as the plaintiff in such an action, that our consciences need not be very tender about the propriety of acting for her without regard to consequences: it is not necessary to be more squeamish than herself. There are however, two cases in which the question of propriety may fairly be discussed — either where character has been gravely attacked,

as the apology for inconstancy, or where seduction has been effected by aid of a promise of marriage; in the one case, a too confiding girl may be reduced to beggary, as well as disgrace for life; in the other, not only her feelings, but those of honoured parents, may be outraged. Here it would be false delicacy to submit in silence, yet still much consideration is due, before actually commencing hostilities. To justify them where character has been attacked, we must be satisfied that the scandal has been made in terms that admit of little doubt of the nature of the imputation — that it has been uttered in a quarter where it will obtain credit — that it has been circulated advisedly, not in momentary anger — that the reputation of the calumniator stands sufficiently high for the calumny to pass current, if uncontradicted; and above all, that the reproach is utterly unfounded.

The parents of a young lady, in the indulgent liberality with which that title is now conceded to every woman above the rank of a washerwoman, came to me with tears in their eyes, to give me instructions for an action, where the promise had, by *their* account, been deliberately made, and heartlessly broken. My best sym-

pathies were awakened, when I saw how sincerely they were affected, but it did not seem to me that the lass herself was equally eager for the vindication of her fame; in fact, while they were in tears, she was giggling: in their presence, all was clear and convincing; but I had the opportunity on the following day, of seeing her alone.

"Well, Miss Lipton, this is a very vexatious matter; tell me all about this former lover of your's."

"Who *do* you mean, Mr. Sharpe?"

"You understand me very well; the man that Jackson says you went a little too far with."

"I declare Mr. Sharpe, I don't know what you mean; nobody went too far with *me*, indeed!" bridling up, but with a simper on her face that she could not suppress, and looking down as if to hide it.

"Very well, Miss Lipton, it does not much matter, but before I proceed against Jackson, I should like to know the worst he can say of you."

"I'm sure, Sir, he can say no harm of me, and I don't care what he says; the nasty man may say what he pleases, he can't do me no

hurt, nor Harry neither! and I must say I think it very uncivil of you, Sir."

"Well; but how far did 'Harry' go?"

"Mr. Sharpe, I'll answer no more of your impertinent questions, it's no business of yours, Sir, how far he went! and if Harry were here, he wouldn't suffer it, that he wouldn't!" affecting to cry, but there were no decided lachrymose symptoms, beyond taking out the handkerchief, so I felt no alarm.

"Then if you won't tell me, Miss Lipton, I must conclude that Jackson has some ground for complaint."

"You may conclude what you please, Mr. Sharpe, and Jackson may complain of what he pleases, Sir! but Harry shall do as *he* pleases, for if you *must* know, we are to be married tomorrow morning, before pa and ma come home! so I wish you good bye, Sir."

And there our colloquy ended, and the action with it.

In the case of seduction under promise of marriage, the chief, perhaps the only consideration, usually is, whether the defendant has the means to pay damages; it ought not to be the only consideration; for it is no trifle to expose

the unfortunate plaintiff to the indurating process of a public exposure in a court of law, where counsel justify a brutal investigation of all her past sins and follies, on the ground that duty to their client warrants the exposure; an excuse that is often strained beyond the limits of decency and humanity: nevertheless, it does occur that prudence or rather necessity, sometimes compels us to advise a client to go through this perilous ordeal: it is a terrible necessity that drives woman publicly to record her frailty and the illegitimacy of her helpless offspring, in all the journals of the day. The attorney who takes on himself the responsibility of sanctioning a step so desperate, ought at least before he passes the Rubicon, to satisfy himself well, that the plunge is not made for nothing.

And here I must be excused for saying a word upon the cruel thoughtlessness of juries; a thoughtlessness as immoral in its tendency, as it is cruel in its operation. A young woman, hitherto of respectable character, and decent expectations, perhaps even of the higher class, appears before them in the painful and degraded position of a supplicant for redress, against a man who has seduced her by deceitful promises,

and then left her, to maintain herself and an innocent child, without even a hope of ever obtaining independence by honorable marriage, —she has alienated her friends, because she has brought disgrace upon them—she has deprived herself of all opportunity of turning what talents she may possess to profitable account, because she has lost her reputation—her expenses are multiplied, and daily increasing, in consequence of the incumbrance which her fall has brought upon her—by the very act of soliciting redress, she stamps the indelible impression of blighted fame upon herself and her infant, though she has no other resource to preserve that infant from starvation—and if she passes the investigation, as she often does, otherwise untainted, she affords fair presumptive proof of the truth of a position which I have often heard laid down, and believe is true, severely as I have elsewhere spoken of the sex, that woman's first offense never springs from a polluted mind, but from the eagerness of a devoted heart to give every proof of confiding affection. Such is the case of almost every plaintiff in an action for breach of promise attended by seduction, and such are the circum-

stances under which she appeals to husbands, fathers, and brothers, for compensation; yet what is the ordinary result? the tale of misfortune is heard — not with cordial sympathy, but with a gloating zest for its indecent incidents, and an eager expectation, ill suppressed, of the fun and equivoque that counsel, with coarseness worthy of his cause, may ingeniously provoke on cross-examination: thus prepared for the necessarily cold and heartless judicial charge, they turn round in their box for a scanty quarter of an hour, and after mutual chuckling over the ribaldry of the bar, and pleading to their consciences the hackneyed recommendation of the judge to give *temperate and moderate* damages, agree upon a verdict of two or three hundred pounds, and go home and dine, in comfortable complacency with each other and themselves, for the liberal justice they have rendered to an injured female!!! Now I will put what may be considered an extreme case, and assume that the damages are awarded at five hundred pounds. Let us calculate the real value of such a verdict. In the first place, so long as the foolish principle obtains, which, even modified as it has been of late years, still

holds to a considerable extent, that a successful party is to recover no higher costs than are adequate in strict necessity to conduct the cause to issue and judgment, damages to the amount of £500 will be reduced to £450 by extra costs; and if the attorney has shown the zeal and activity which he ought to do, especially in a cause of this nature, his extra costs ought to be much more than fifty pounds, in most cases. Another deduction is to be made for the charge of the plaintiff's confinement and its concomitant expenses: these may be moderately stated at twenty pounds, and if she happens to be in any station of society above the very lowest, her temporary seclusion for some months, is inevitable to spare her the torture of publicity, when her frailty first becomes known: it would be difficult to reckon this at less than thirty pounds more. Thus four hundred pounds is the balance left to provide for the unhappy woman and her child; and it must be remembered that this provision is *for life!* from her situation, it follows that she cannot employ the money in business, even if she understands a trade: this compensation is the very limit of all her earthly prospects: when character is

gone, and friends are alienated, she can of course expect no more: it may produce her, if judiciously invested, an annuity of twelve or fourteen shillings per week, and when this fails to support her, she has but one alternative —the town! to this she is eventually driven, not more by the cruel faithlessness of her lover, than by the cool indifference of her jury. Should these pages ever reach the eyes of any that have been called upon to measure damages in these cases of compound breach of faith, I trust they will be more liberally inclined hereafter, towards the wretched plaintiff; and while they temper their verdict with moderation, as the judges tell them, will also remember that "moderation" is a comparative term; a man treads on my spaniel's toes, and I ask him with calmness and temper, to be more careful another time; but if he insults my daughter, I think it a moderate course to kick him down stairs though at the risk of breaking his neck.

CHAPTER XXV.

"Nor can protection be accomplished as regards private slander, unless the defense of the injured character is made so easy, safe, and effectual, that the legal proceeding shall not be either loaded with ruinous expense, nor shall imply a consciousness of guilt, nor shall aggravate, rather than remove the mischief done. In all these particulars however, the law of this country is singularly defective."

BROUGHAM'S SPEECHES. Vol. I.

IN relation to another topic I have given an instance of a class of "awkward cases," so common in these days, that almost every attorney is familiar with them: I mean those which arise in newspaper libels. I really think that the Times, and John Bull, together with certain other periodicals of less illustrious names, deserve the honor of plate by subscription from our learned body, for the enormous costs to which they have assisted us. I am not certain whether it be good policy in an author to fall foul of the daily press; it is difficult to say; for if sometimes they affect a magnanimous indifference akin to that of the lion when the

dog worried him, and gave a sort of lofty good-humored growl that may draw attention to the ignoble assailant, without injuring him by a lash of the tail, at other times, and far more frequently, they go on sleeping in proud and pretended unconsciousness of such unworthy enemies; their silence is far more provoking, because more mischievous to one's celebrity. I have been extremely amused sometimes by the ingenuity with which the more witty and learned of these mighty scribes contrive at once to give vent to their displeasure, and yet mortify their foes by contemptuous suppression of their assaults. I recollect once being at a dinner-party of young men, none of them contemptible in point of ability, and some of them far otherwise. By way of evening amusement, we selected each our daily paper, and affecting the tone of familiar acquaintance, addressed letters to the editors in such terms as we considered most likely to irritate, that we might have the pleasure of judging by their "answers to correspondents" how far we succeeded in penetrating their anonymous hides. At our next meeting we brought their various replies; they were entertaining, inasmuch as if their wit was

somewhat scanty, they at least furnished each of us with a soubriquet for the evening, that afforded no little pleasantry among ourselves. All dealt very much in alliteration, and most affected the laconic. I cannot recollect the whole of them, but they were very similar, and the Times was especially nettled, though I cannot now recall the cause of offense. "Old Nick is a ninny! we know him better than he thinks we do; we wish he would send his balderdash to papers that have more room for it." "Bounce is a booby," was the retort of another; if I remember right, it was the Chronicle. "A fool who writes a clerk-like hand may be assured that we were not hoaxed sufficiently to reach the second page of his letter;" was John Bull's somewhat Irish disclaimer of being duped. A fourth answered in obvious wrath, "Fairplay looks as foolish as when he was dragged out of the horsepond! he forgets that we were by; we could tell him all about it if necessary!" It gave us some gratification to see, that even in their mysterious hiding-places these self-important worthies did not feel quite comfortable when attacked with daggers, as pointed if not as poisonous as their own; for

there was not one letter that remained unnoticed, nor one answer that did not show the eager wish to throw back the mortification that had been inflicted.

I must not again however lose sight of my subject. If the law of libel is open to complaint, I know of no respect in which it is so more justly, than that every remedy which it gives to an injured party is of such a nature, that the adoption of it exposes him to redoubled reproach: hence every timorous or weak-minded man is reduced to helpless and humiliating prostration before the daily press, should he unfortunately provoke its enmity, or enjoy rank or office of sufficient importance to draw hostile observation upon him: whether he files a criminal information, or indicts or brings an action for damages, it is all one; take which course he will, he is accused of a sinister motive for not selecting another in preference, and consciousness of guilt is good-naturedly deduced from either; nor is this new imputation confined to the paper that he has attacked; in cases of libel, all the journals make common cause with their contemporary, whatever may chance to be their political, or even their

personal hostility: they seem to think themselves entitled as of obvious and undoubted right, to put any man they please on self-defense on oath, and when defeated in this object by the resolute refusal of their victim to submit to such tyranny, they complain of the hardship imposed on themselves in the discharge of their public duty! as if all the world did not know that they undertake such a duty voluntarily, for the best of all possible reasons, that it receives higher pay than any other speculation in the field of literature. To read some of the angry articles that appear on these occasions, one would really be tempted to imagine that the proprietors of newspapers were the most ill-used class in the community, who, having out of pure public spirit, undertaken a gratuitous service to their fellow-subjects, were persecuted for their disinterested patriotism!!! Many of them indeed, carry their assurance so far, that they go out of their way to insinuate some injurious charge, and then demand payment for the contradiction of it as an advertisement! I remember recently seeing a glaring instance of this, in the Times, in a letter of the joint-solicitors of the Westminster Improvement Company.

Could the manager of that journal have overheard some of the very general comments made on this occasion, out of the profession as well as in it, I doubt if he would have felt much flattered! It is fair to observe, that, if far from immaculate, the Herald is more exempt from these libelous sins than any other journal of the day, and the Times, with all its swaggering importance, seems far more disposed than others to allow fair play in the way of self-exculpation to libeled parties; but the best of them are an ungrateful set to the very public that supports them.

Common as these libel-cases are, they are very embarrassing to professional men: it certainly is far from pleasant to the attorney himself, to become the object of a splenetic and vindictive attack, which is very likely to follow if he is successful against the newspaper which he is called upon to prosecute; but I will do my brethren the justice to say, that I believe there are very few among them so destitute of moral courage, as to be intimidated in the discharge of their duty by any apprehension of such personal consequences. The real difficulty in cases of this kind, springs from the reluc-

tance which all men have to face the public, where custom, profession, or political pretension has not rendered them indifferent to the encounter. It is a natural bashfulness, akin to that which cows a man on his early appearance as a public speaker. It is difficult to overcome this timidity, even where one is conscious that it is misplaced and unreasonable: and yet it is not less an act of kindness, than of legal duty, to resist the indulgence of it, for it makes the party libelled exquisitely sensitive to the attack. I have been consulted in many cases, in which my client has, from morbid sensibility, been excited almost to madness, by some scurrilous insinuation in the public papers, and at the same time has been ludicrously stuck on the horns of the usual dilemma, whether he should not make bad worse, by challenging scrutiny into the justice of the charge: this apprehension always predominates in proportion to the privacy of the client's routine of life. A country gentleman, who, in some unlucky hour has so far lost discretion, as to take an active part in a county election, in preference to killing partridges, or more frequently a quiet clergyman, betrayed by ecclesiastical zeal into contro-

versy on some question involving the temporal interests of the church, finds himself unexpectedly "shown up," in a provincial journal; private malice (and who is without a private enemy?) assists the editor to dress up a paragraph in colors in which truth and falsehood are intimately mixed. In the simplicity of his mind, the victim sends an explanation, candidly admitting the truth, and vainly endeavoring to separate it from its base alloy: the admission is published with new and aggravated comments—the exculpation is suppressed, because "the pressure of other matter precludes us from giving more than an extract from the reverend gentleman's letter, which we must regret, as we should have liked to amuse our readers"—thus ridicule is added to abuse; the libel, if pointed, or from circumstance politically important, is quoted by the London press, as illustrative of a public grievance; the poor pastor solicits a contradiction, and is kindly assured that "his explanation is an advertisement," and of course inadmissible, unless paid for at five shillings a line, being the tithe of a year's income. Meanwhile he is condemned to the hypocritical condolences of all his clerical

neighbors — a letter of fraternal inquiry by his diocesan — and a curtain lecture nightly by his wife. The spirit of resistance is at length aroused, he collects the testimonials of all his parish — provides for to-morrow's funeral and next Sunday's duty — huddles a clean shirt and a sermon into his carpet-bag, ties his silk handkerchief round his neck, and bustles away to town on the top of the coach, full of pious indignation, not the less potent because long suppressed, to consult his attorney, and restore peace to his fire-side, and confidence to his flock. Woe betide him if his attorney wants sense or principle! in either case his living is sequestrated — his family are thrown on the parish, and he is a degraded man for life! Our duty is to laugh away the irritation, give him a night's lodging and a good bottle of port, and send him safely back by the next coach to his friends.

But there are cases, and far too many of them, that admit of no conciliatory arrangement by the consoling process of the dinner table. Where personal honor, or professional or official integrity is attacked, redress must be sought by legal proceedings; and this more

especially when a false color is ingeniously given to facts of themselves innocent, and when strangers may be justified in withdrawing confidence, if vindication is withheld. It is in such cases that the responsibility of advising is most painfully felt: if it is true that policy requires every man who may accidentally be involved in the affairs of public life, to be at all times ready to meet a rigid investigation into every act of his existence, whenever he is challenged by the daily press, (and their doctrines on the liberty of the press amount to this,) it is not less true that a fearful responsibility is thrown upon the solicitor who has to advise a client how to conduct himself under circumstances so perilous to the most virtuous. If an action for damages is recommended, the plaintiff cannot be examined, and he is taunted with consciousness of guilt, because he has not preferred moving for a criminal information, where he must have purged himself by affidavit. If he moves for an information, he is exposed to a similar taunt for not subjecting the value of his character to the estimate of a jury! If he takes neither course and indicts, as truth is no part of the issue, he cannot be examined in

open court, unless by the special connivance of the judge, a connivance rightly felt to be extra judicial, and therefore rarely exhibited: then he is challenged with availing himself of a remedy that covers him from the fire of cross-examination; and this is the unfortunate dilemma to which any anonymous libeler can reduce him at pleasure! It is very true that among professional men, such taunts and insinuations are valued as they deserve, at nothing; but the world in general is not capable of such discrimination, and never will be. It is through this legal Scylla and Charybdis, that we are required to steer our clients safely, and it is the attorney who in this hazardous navigation must always take the helm: we can receive but little assistance from counsel; the private feelings, the past history, the personal character of the party, are rarely known to them; they are always strangers to our clients except in reference to the particular transaction, and clients are rarely willing to repose such extensive domestic confidence in them. But it is by these circumstances only, that a correct judgment can be formed. A man of strong nerve, and consistent moral conduct, may

prudently be advised to set publicity at defiance, while the same course might prove fatal to the domestic peace, and perhaps to the health of a timid man, or one open to censure for early delinquencies: even where the plaintiff himself need not be deterred by any personal considerations from submitting to the severest scrutiny, he may be intimately connected by family ties, with those whom such scrutiny may collaterally expose, and this is a difficulty that counsel cannot appreciate. It rests with us therefore, exclusively, to bear the weight of that moral responsibility which is involved in the exercise of a legal discretion in cases of serious libel, and hence I class them among the most difficult that fall to our lot to manage.

It is our duty in all cases to form a dispassionate judgment on the wrongs sustained by our clients, but there is no case in which this is so necessary as in actions or prosecutions for libel. Even where language is insulting, no three men will be found who exactly agree in their measure of the insult; but if the question is whether it is injurious, speculation is still more at fault. I have very often looked back on life, and when reflecting on the absurdities

and follies of my adolescence, perhaps in honesty I should say of a yet later period, I have thought what a blessed thing it is that people have such short memories in every thing that does not concern themselves. If others were to treasure up our ridiculous errors with as much fidelity as conscience does, what a set of fools most of us must appear! Such however, is to every man, his vast importance in his own eyes that in the first ebullitions of wrath provoked by newspaper libel, he concludes all the world has nothing else to think about, and will think of nothing else while the present generation lasts, but the ludicrous figure which he is made to cut in the columns of the Times, the Herald, or the Chronicle! He is in no temper to take a just estimate of the injury, and all his family are sure to sympathize with him, feeling a sort of reflected disgrace in the ridicule thrown upon their relative. Our province is to provide the scales for nicely weighing the injury committed: if it is clear that character is blemished, so long as the charge remains uncontradicted, that official influence will be diminished, commercial credit tarnished, or professional income damaged, we are warranted in advising a recourse to law:

but in deciding these points, it is our business to consider well, as in a former case to which I have just alluded, whether the imputation is not only serious, but unequivocally expressed, and *prima facie*, entitled to credit when proceeding from such a quarter; whether the general reputation of our client may not stand too high to be affected by it; whether he may not have himself provoked the slander by intemperate controversial language; a charge to which you may be sure that he will not readily plead guilty; and above all whether there exists no color or foundation for the libel. When satisfied on these important preliminaries, our further advice must be governed by special circumstances, such as the station and pursuits of the client; his moral qualities and character, his relative duty to near connexions, or to superiors in office; the position and circumstances of the defendant should also be taken into the account; the general respectability and influence of his journal, and the probability of a successful issue proving efficient to restrain him from further offense; for many are too wealthy to care either for fine or damages, and many so poor that it is a matter of indifference whether they lose

a verdict for twenty pounds, or a thousand. We must be guided by such considerations in electing between civil and criminal proceedings, and set at defiance all taunts of having made our election wrong. It is impossible to prescribe general rules for the exercise of discretion on these occasions; all I can say is, that political libels are for the most part better let alone; but if that is impossible, then a criminal information is usually the safest course. An action is the most eligible proceeding in most cases of private libel, but the attorney is a fool positive who brings his action in any case, where the chances are even that he only recovers nominal damages; his rapacity and roguery will be a most amusing theme to the judge, the jury, and every body but himself; and his bill will be taxed to wind up the farce!

Many of these remarks are equally applicable to the libels of private writers, though it is only in the instance of newspapers that much difficulty of discretion occurs: but there is such a thing as being too successful for the client's interest. I recollect being instructed many years ago to bring an action for a naval officer who had been charged with swindling in a letter address-

ed to the Admiralty. It was intimated to him that he must acquit himself of the charge in a court of law, or be struck out of the Navy List. The action was tried at the assizes, and Mr. Baron Gurney, than whom there never existed a more able advocate at *Nisi Prius*, was his counsel; the damages were laid at £500, and we unluckily recovered half; the costs were taxed at three hundred more, and the defendant, panic-struck by this result, absconded. I found out his place of concealment in a very singular way, and laid a plan for his caption, which succeeded, but not till the fellow shot one man, and stabbed another in the attempt, for which a merciful jury convicted him of manslaughter, and an upright judge (Lord Wynford) transported him for life; but my unfortunate client, though he retained his rank, never recovered a sixpence, and soon after died of a disorder brought on by vexation, anxiety, and disappointment. The circumstances of this case would alone be sufficient for a romance, but I have not space for the melancholy and extraordinary details; so extraordinary that I could scarcely hope to obtain credit for them, except with those who took part in them, and still

survive. It was by what is commonly called good fortune, that I personally escaped the danger. The defendant was secreted in a lonely house at some distance from town, that used to be frequented only a few months previously by the gang of ruffians who were engaged with Thurtell in the plunder and murder of Weare. At the same time that I was informed of his place of concealment, I was also cautioned that his character was desperate, and that he always went armed. Apprehending that he was more likely to buy off the officer than shoot him, I resolved to accompany him, to guard against any dereliction of duty, and ordered a post-chaise. We were both seated in it, and the boy had mounted, when I found that my pistols, which I had been advised to take for self-defense, had not been put into the carriage. I stopped the post-boy, and desired my clerk to fetch the mahogany box on my table. "What is that, Sir?" asked the officer. "Only my dressing-case: we may be detained all night." "Dressing-case!" replied the man, who on taking it out of my clerk's hand, found that it was heavy, "if that's your fun, it's no go for me: I'll have nothing to say to such a job. You

may chance to get dressed to some purpose with them sort of tools; but I won't be shaved with you, I promise you!" and out he jumped, in spite of all my expostulations, and bolted. As of course I had myself no authority to take the defendant, there was no help for it but to dispatch my clerk to the other end of the town in search of another officer who knew his person. It was so late in the day before he succeeded, that he ordered a chaise, and set off with the officer contrary to my directions, without returning to me. Hence I knew nothing of the catastrophe, till long after it was all over. Had I been present, I should most probably have been the victim; for it was principally against me that his vindictive fury was excited, and being myself armed and irritable, I might not have been the only one! It was one of those merciful escapes for which I hope and wish to be for ever grateful to an overruling Providence. Occasions may occur where it is right for an attorney to go a little out of his way to protect a client's interest, and this was one of them: but the result proves that nothing short of necessity, or a *quasi* necessity, can excuse him for stepping beyond the line of professional duty.

CHAPTER XXVI.

"Judicis est semper in causis verum sequi; patroni nonnunquam verisimile, etiam si minus sit verum, defendere."

CIC. de Off.

THERE is yet another description of "awkward cases" on which I must offer a short remark. As a general maxim, a lawyer is bound to accept every retainer, or abandon business; but in our branch of the profession it is competent to him to reject any particular class, if he avowedly devotes himself to another. It is not very politic, however, to be thus fastidious with old and accustomed clients. Accidental circumstances early rendered me very familiar with practice in crown cases; but I soon found that though such business is easily acquired and by no means unprofitable, as I have elsewhere shown, it does not consist with a respectable ambition to seek it. If one who habitually consults you is so unhappy as to have a

son or a brother involved in a criminal charge, it would be rank cowardice to decline a retainer on his behalf, merely because such employment is not generally considered reputable; and in the motto which I have prefixed to this chapter, we have a high authority to guide us in the duty which such a retainer imposes. But still I would always recommend the attorney to keep himself as much in the back-ground as possible, and to avoid all hazard of rendering his name conspicuous in the police-reports. This is easily accomplished by giving a brief to some Old Bailey counsel; and they are far more up to all the tricks and manœuvres of Bow street practice than the most shrewd and dexterous attorney can ever hope to find himself, where his business of this kind is only casual. The disposition of the client to deceive his solicitor is, as might be expected, most strongly exhibited in cases of criminal accusation, though his chance of being acquitted must essentially depend on the sincerity with which he confides in him. A defendant in a felonious charge can rarely bring himself to acknowledge his guilt even to a privileged confidant; yet without a full and frank explanation

of all circumstances, the attorney may be taken by surprise, when all precaution is too late, and must at all events be deprived of the opportunity of sifting the evidence for the prosecution. Nor is the innocent defendant less chargeable with this folly: whether it is to be ascribed to the natural shame of being even suspected of a serious offense disgraceful to character, or to a distrust of the zeal of the attorney when he finds he has an equivocal case, I cannot say; but I have known instances of men, accused of crime, when only guilty of venial indiscretion, who while eager and loud in protesting their innocence, have exposed themselves to the imminent risk of a conviction, by withholding a confession of those minor follies that have brought them under suspicion of guilt. I will content myself with mentioning only one case which will serve to show the value of perfect candor. It occurred many years ago, in the person of a college friend who had just arrived in London, as ignorant of its snares as a child in arms. He was occupied for some days in that most wearisome of all pursuits, — lodging-hunting. In one of his morning excursions, he entered a respectable-looking house, over

which he was shown by a young female of very forward and flippant manners. He thoughtlessly entered into familiar conversation with her, not very likely of the most decorous kind, when the artful hussey ran out of the room, screaming violently for help, till her cries brought up a man to her assistance, who, without more ceremony, laid hands on the supposed culprit, and detained him while he sent out the girl for an officer! It was in vain that he explained and protested: he was carried off in custody on a charge of attempting a criminal assault, and the only indulgence granted to him was to send a messenger for me, before he was taken to the bar of the police office. He told me frankly all that had passed; and as I knew him to be a man of veracity, and he had admitted enough to lay himself open to reproach, though not to accusation, I thought the best way was to compromise the matter. The girl of course, was impracticable: but I applied to the man, and he had the impudence to ask a hundred pounds! To obtain time for inquiry, I affected to listen to him, and left my friend in custody all night, while I spent the time in inquiries about the house and its worthy

inmates; nor was it spent in vain. The landlord of the scoundrel, though I believe he was fully cognizant of his tenant's character, entered warmly into the matter, personally undertook the negotiation, and effected my friend's release for five pounds. I afterwards was informed, how truly I cannot say, that it was not the first nor the second occasion on which this precious pair had played the same game successfully! Had my friend kept back his folly from me, such as it really was, I should have advised him to face it out, and the advice would have been hazardous, to say the least of it! had nothing worse followed, he would have been stigmatized for life by the publicity of a police report, nor would a subsequent acquittal at the Old Bailey have much mended the matter, in point of reputation. An attorney is bound to make the best of his client's case, whether guilty or innocent; but I think he is always justified in throwing it up, when he has reason to believe that his client is withholding full confidence.

If I were to follow up my subject to its full extent, I should fill another volume; and my publisher already complains of the length of this. The dilemmas in which we find ourselves

in entangled family settlements—in arranging the affairs of half-ruined men of rank—in winding up a bankrupt estate—in negotiating the compromise of election petitions, or in prosecuting or defending them—in soliciting private bills—in seeking redress for colonial grievances—are so various, and yet so perplexing, that each head deserves not only a chapter, but a volume for itself; and though perhaps I have only yet run half my course, I could readily find materials in my own office, without going further, to fill that volume. But my intelligent reader will perceive that all professional difficulties of the kind resolve themselves into that inexperience of human character, as it is exhibited in the intercourse of the busy world, which is common to us all in early life: as soon as we acquire an insight into the workings of passion and of complicated motive, in those with whom we have to deal, it is easy so to regulate our own behaviour as not only to avoid offense, but acquire that sober influence which every solicitor ought to possess with his clients. Some indeed are so headstrong, so irritable, and so impracticable, as to set all management at defiance. Some, again,

are so narrow-minded and illiberal as to presume on the obligation which they conceive that they impose by employing us, and will, if not courteously made sensible of their mistake, attempt to extort unbecoming service or submission ultra the value of any costs they pay. This is a failing more especially frequent with those whom I have formerly described as *collective* clients. When our adverse fortune brings us in contact with clients of this description, if we can afford to dispense with them, the sooner we do so the better; if we cannot, self-respect must not be sacrificed to profit; for if it is, we shall still fail in extending or strengthening our connexion. But it is impossible to advise any man how far or in what way he may prudently assert his independence: he must be guided by circumstances, and trust to his own natural address. My object has been to illustrate character, as usually exhibited by clients in their intercourse with us, and thereby to furnish a clue that may extricate any man of common sense from the worse than Dædalian labyrinths of our profession. The longer I live in that profession, however, the more I am convinced that straight-forward dealing, and

honorable consistency of principle, go farther to smooth our path and preserve us from unseen dangers, than all the address and all the shrewdness that knowledge of the world can give; and these are qualities to be derived from a higher source than the experimental cautions of a stranger, or they will never be acquired at all; I cannot conclude better than with a quotation from one who was no inexperienced teacher, though we rarely take our practical lessons from the pages of ancient philosophy.

"Nam certe neque intelligentiam concesseris iis, qui proposita honestorum ac turpium via, pejorem sequi malint; neque prudentiam iis, qui in gravissimas, frequenter legum, semper vero malæ conscientiæ, pœnas, a semetipsis improviso rerum exitu inducantur."—QUINCTIL.

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